TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. ~~464.~~ 190

HARVEY TERRY, APPELLANT,

vs.

JOHN J. McLURE, RECEIVER OF THE BANK OF CHESTER, ET AL.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF SOUTH CAROLINA.

FILED SEPTEMBER 9, 1878.

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1 No. 1.

THE UNITED STATES OF AMERICA,
District of South Carolina, to wit:

At a circuit court of the United States for the fourth circuit, in and for the district of South Carolina, begun and holden at Charleston, in the district aforesaid, on the first Monday in April, 1871, before the honorable Hugh L. Bond and the honorable George S. Bryan, judges of the said United States for the district of South Carolina, holding said circuit court according to the form of the act of Congress in such case made and provided, the following proceedings were had:

HARVEY TERRY
vs.
JOHN J. MCLURE, RECEIVER OF THE BANK OF Chester, South Carolina, et al.

Be it remembered that heretofore, to wit, the 2nd day of December, in the year of our Lord one thousand eight hundred and seventy, the said Harvey Terry impleaded the said John J. McLure, receiver of the Bank of Chester, et al., in a bill for discovery and relief, as follows:

2 No. 2.

Bill.

UNITED STATES OF AMERICA:

Fourth circuit. In equity.

To the honorable the judges of the circuit court of the United States within and for the district of South Carolina, sitting in equity:

Harvey Terry, of Richmond, and a citizen of Virginia, brings this his bill against John J. McLure, receiver of the Bank of Chester, South Carolina, of the county of Chester, and a citizen of the State of South Carolina, and George S. Cameron, of Charleston, and a citizen of the State of South Carolina, and J. A. Bradley, of the county aforesaid, and a citizen of the State of South Carolina, and James Hemphill, a citizen of the State of South Carolina, and William Colwell, a citizen of the State of South Carolina, S. W. Mobley, of the county aforesaid, and a citizen of the States of South Carolina, and W. H. Gill, of the county aforesaid, and a citizen of the State of South Carolina, and
3 A. B. Springs, a citizen of the State of South Carolina, and others, stockholders yet to be discovered.

Humbly complaining, sheweth unto your honors, your orator, Harvey Terry, a citizen of the State of Virginia, in behalf of himself and all others, the creditors of the Bank of Chester, South Carolina, who shall come and seek relief by and contribute to the expenses of this suit.

That by an act of the general assembly of the State of South Carolina entitled "An act to incorporate the Planters and Mechanics' Bank of South Carolina," ratified on the twentieth day of December, A. D. 1810, the several persons in said act named, their successors and associates, were incorporated under the name of The Planters and Mechanics' Bank of South Carolina, with certain powers and privileges, as in

and by the said act, reference thereunto being had, will more
4 fully appear, and that said charter was renewed, with a continuance of all privileges then enjoyed under the original charter, as aforesaid, by act of the general assembly of the said State entitled "An act to renew the charter of the Planters and Mechanics' Bank and of the Union Bank, of South Carolina," ratified on the eighteenth day of December, A. D. 1839, for the term of twenty-one years from the day on which the original charter of the said bank would have expired; and the said charter was again renewed, with a continuance of all privileges enjoyed under the original charter, as aforesaid, by act of the general assembly of the said State entitled "An act to recharter the Planters and Mechanics' Bank of South Carolina, the Union Bank of South Carolina, the Commercial Bank, of Columbia, South Carolina, and to incorporate the Exchange Bank, of Columbia, the Farmers' and Exchange Bank, and the People's Bank, of Charleston, the Bank of Newberry, the Bank of Chester, the Bank of Sumterville, the Planters' Bank, of Fairfield, and the Western Bank of South Carolina, at Anderson," ratified
5 on the sixteenth day of December, A. D. 1852, for twenty one years from the first day of January, A. D. 1853.

That by the last mentioned act the aforesaid Bank of Chester, South Carolina, was incorporated with all the powers and privileges of the said Planters' and Mechanics' Bank of South Carolina, as in and by the said act, reference thereunto being had, will more fully appear; and that by the said act the said Bank of Chester, South Carolina was incorporated for the period of twenty one years from the first day of January, A. D. 1853.

That in and by the said acts the said bank was duly organized, and became vested with all the rights, privileges, and powers therein granted, and, among others, the right to issue bills and notes as a circulating medium, and payable by the said bank, in coin, on demand, to receive and hold moneys on deposit, to make loans and deal in exchange, foreign and domestic, and to transact generally such operations and business as legitimately belong to a banking institution; and in and by the said acts it was also provided that the said bank should be liable to
6 such regulations as the general assembly should at any time impose, as in and by the said acts incorporating the said bank, upon reference thereunto had, will more fully appear.

And your orator further sheweth unto your honors that from the date of the said incorporation the said bank has, until within a short period anterior to the filing of this bill, used and enjoyed the powers and privileges conferred by the said act, and engaged in the business of banking, and has issued its bills and notes to a large amount, and has made contracts, and become indebted to divers persons in large sums of money.

And your orator further sheweth unto your honors that in and by the aforesaid act of the general assembly of the State of South Carolina it is provided that in case of the failure of the said bank each stockholder, copartnership, or body politic, having a share or shares in the said bank at the time of such failure, or who shall have been interested therein at any time within twelve months previous to such failure, shall be liable and held bound individually for any sum not exceeding twice
7 the amount of his, her, or their share or shares.

And your orator further sheweth unto your honors that on the first day of March, A. D. 1865, and indeed at an earlier date, the said bank had failed, being then indebted to an amount far exceeding its assets; and that, in consequence of such failure, in accordance with the provisions of the said act, the stockholders, copartnerships, and

bodies politic holding shares in said bank, or who had been interested therein within twelve months previous to such failure, became liable for the debts of the said bank for sums not exceeding twice the amount of the shares held by them respectively.

And your orator further sheweth unto your honors that by an act of the general assembly of the said State entitled "An act to enable the banks of the State to resume business or to place them in liquidation," approved March the thirteenth, A. D. 1869, it was provided in words as follows, that is to say: "That all banks incorporated by the
8 authority of this State, and which have by said authority issued bills of credit known as bank bills, and have failed to comply with said corporate privileges by refusing to pay their bills of credit, and are now thus failing to comply with the provisions of said act of incorporation in this particular, and shall so continue to violate said act until the first day of December, A. D. 1869, shall forfeit all corporate rights and privileges, and are forbidden to transact any business as banking institutions": and in the second section of the last mentioned act it is provided that the judge of the circuit in which such bank or banks may be situated, upon notification made to him of each and every bank failing to comply with the requirements of the first section of the same act aforesaid, shall appoint a suitable person as receiver of the property and assets of each of the aforesaid banks, who shall, after having filed a bond with good and sufficient security, to be approved by the said judge, take charge of the property and assets of the bank.

And your orator further sheweth unto your honors that the
9 said Bank of Chester, South Carolina, some time previous to the said first day of December, A. D. 1869, failed to pay their bills of credit known as bank bills, and continued so to fail to pay their bills of credit up to the said first day of December, A. D. 1869, and that subsequently, on the day of , in accordance with the provisions of the said act last mentioned, on the application of W. H. Brawley, solicitor of the sixth circuit of the said State, John J. McLure was by an order made by the honorable William M. Thomas, circuit judge of the sixth circuit, duly appointed receiver of the property and assets of the said bank, and thereafter, and before the commencement of this action, he gave his bond, as required by said order, as such receiver and took charge of the assets of the said bank.

And your orator further sheweth unto your honors that on the eighth day of January, A. D. 1870, on motion of said W. H. Brawley, solicitor, it was ordered by the said honorable William M. Thomas, circuit
10 judge of the said sixth circuit, that all creditors and bill holders of the said bank be enjoined from proceeding at law against the said bank.

And your orator further sheweth unto your honors that of the said bills of credit of the said bank, or promissory notes payable on demand to bearer, and constituting a portion of the circulating medium intended to be furnished by the said bank in accordance with its charter, a large amount in the regular course of trade and for valuable consideration came to your orator, to wit, the amount of eight thousand and twenty dollars, which said bills are the property of your orator, and set forth as to dates and amounts in a schedule hereto annexed, marked Exhibit A, and prayed to be taken as a part of this bill, and now in the hands of the solicitor of your orator, and ready to be produced when required, in virtue whereof your orator is entitled to have of the assets of the said bank, if they be sufficient to discharge all its debts and liabilities, payment in full as well of the principal as of interest, and if the

and by the said act, reference thereunto being had, will more
4 fully appear, and that said charter was renewed, with a continuance of all privileges then enjoyed under the original charter, as aforesaid, by act of the general assembly of the said State entitled "An act to renew the charter of the Planters and Mechanics' Bank and of the Union Bank, of South Carolina," ratified on the eighteenth day of December, A. D. 1839, for the term of twenty-one years from the day on which the original charter of the said bank would have expired; and the said charter was again renewed, with a continuance of all privileges enjoyed under the original charter, as aforesaid, by act of the general assembly of the said State entitled "An act to recharter the Planters and Mechanics' Bank of South Carolina, the Union Bank of South Carolina, the Commercial Bank, of Columbia, South Carolina, and to incorporate the Exchange Bank, of Columbia, the Farmers' and Exchange Bank, and the People's Bank, of Charleston, the Bank of Newberry, the Bank of Chester, the Bank of Sumterville, the Planters' Bank, of Fairfield, and the Western Bank of South Carolina, at Anderson," ratified
5 on the sixteenth day of December, A. D. 1852, for twenty-one years from the first day of January, A. D. 1853.

That by the last mentioned act the aforesaid Bank of Chester, South Carolina, was incorporated with all the powers and privileges of the said Planters' and Mechanics' Bank of South Carolina, as in and by the said act, reference thereunto being had, will more fully appear; and that by the said act the said Bank of Chester, South Carolina was incorporated for the period of twenty-one years from the first day of January, A. D. 1853.

That in and by the said acts the said bank was duly organized, and became vested with all the rights, privileges, and powers therein granted, and, among others, the right to issue bills and notes as a circulating medium, and payable by the said bank, in coin, on demand, to receive and hold moneys on deposit, to make loans and deal in exchange, foreign and domestic, and to transact generally such operations and business as legitimately belong to a banking institution; and in and by the said acts it was also provided that the said bank should be liable to
6 such regulations as the general assembly should at any time impose, as in and by the said acts incorporating the said bank, upon reference thereunto had, will more fully appear.

And your orator further sheweth unto your honors that from the date of the said incorporation the said bank has, until within a short period anterior to the filing of this bill, used and enjoyed the powers and privileges conferred by the said act, and engaged in the business of banking, and has issued its bills and notes to a large amount, and has made contracts, and become indebted to divers persons in large sums of money.

And your orator further sheweth unto your honors that in and by the aforesaid act of the general assembly of the State of South Carolina it is provided that in case of the failure of the said bank each stockholder, copartnership, or body politic, having a share or shares in the said bank at the time of such failure, or who shall have been interested therein at any time within twelve months previous to such failure, shall be liable and held bound individually for any sum not exceeding twice
7 the amount of his, her, or their share or shares.

And your orator further sheweth unto your honors that on the first day of March, A. D. 1865, and indeed at an earlier date, the said bank had failed, being then indebted to an amount far exceeding its assets; and that, in consequence of such failure, in accordance with the provisions of the said act, the stockholders, copartnerships, and

bodies politic holding shares in said bank, or who had been interested therein within twelve months previous to such failure, became liable for the debts of the said bank for sums not exceeding twice the amount of the shares held by them respectively.

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8 authority of this State, and which have by said authority issued bills of credit known as bank bills, and have failed to comply with said corporate privileges by refusing to pay their bills of credit, and are now thus failing to comply with the provisions of said act of incorporation in this particular, and shall so continue to violate said act until the first day of December, A. D. 1869, shall forfeit all corporate rights and privileges, and are forbidden to transact any business as banking institutions"; and in the second section of the last mentioned act it is provided that the judge of the circuit in which such bank or banks may be situated, upon notification made to him of each and every bank failing to comply with the requirements of the first section of the same act aforesaid, shall appoint a suitable person as receiver of the property and assets of each of the aforesaid banks, who shall, after having filed a bond with good and sufficient security, to be approved by the said judge, take charge of the property and assets of the bank.

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9 said Bank of Chester, South Carolina, some time previous to the said first day of December, A. D. 1869, failed to pay their bills of credit known as bank bills, and continued so to fail to pay their bills of credit up to the said first day of December, A. D. 1869, and that subsequently, on the day of , in accordance with the provisions of the said act last mentioned, on the application of W. H. Brawley, solicitor of the sixth circuit of the said State, John J. McLure was by an order made by the honorable William M. Thomas, circuit judge of the sixth circuit, duly appointed receiver of the property and assets of the said bank, and thereafter, and before the commencement of this action, he gave his bond, as required by said order, as such receiver and took charge of the assets of the said bank.

And your orator further sheweth unto your honors that on the eighth day of January, A. D. 1870, on motion of said W. H. Brawley, solicitor, it was ordered by the said honorable William M. Thomas, circuit
10 judge of the said sixth circuit, that all creditors and bill holders of the said bank be enjoined from proceeding at law against the said bank.

And your orator further sheweth unto your honors that of the said bills of credit of the said bank, or promissory notes payable on demand to bearer, and constituting a portion of the circulating medium intended to be furnished by the said bank in accordance with its charter, a large amount in the regular course of trade and for valuable consideration came to your orator, to wit, the amount of eight thousand and twenty dollars, which said bills are the property of your orator, and set forth as to dates and amounts in a schedule hereto annexed, marked Exhibit A, and prayed to be taken as a part of this bill, and now in the hands of the solicitor of your orator, and ready to be produced when required, in virtue whereof your orator is entitled to have of the assets of the said bank, if they be sufficient to discharge all its debts and liabilities, payment in full as well of the principal as of interest, and if the

said assets are not sufficient, the proportion to which, on a division of the same to all bill-holders and creditors, your orator may be entitled, and in virtue whereof your orator is also entitled to payment of his debt out of the property of all persons who were stockholders of the said bank at the time of its failure, or were interested therein at any time within twelve months previous to said failure, according to the provisions of the act of the said State aforesaid.

That for the reasons and facts aforesaid your orator charges that he is entitled to have an account of the assets of the said bank, and that the same shall be marshalled under the directions and decree of this honorable court and applied to the discharge of the claims of your orator and other just creditors of the aforesaid bank; that your orator is entitled to a full discovery of the list of all persons who were stockholders at the time of the failure of the said bank, or were interested therein at any time within twelve months previous to said failure, and that your orator has frequently previous to the first day of December, A. D. 1869, and subsequently, applied to the then president and directors of the said bank for the said list, but they have absolutely refused to comply with such request and do still refuse; that your orator is entitled to pursue on the equity side of this court the said stockholders when discovered, and is entitled to a full payment of his claim against the said bank out of the property of the said stockholders of the said bank and other persons who were interested therein within twelve months previous to the failure of the said bank, when discovered, upon their liability under the provisions of the said charter, and the act of the general assembly amending the same, and that your orator is entitled to a full discovery of the facts as charged.

In tender consideration whereof, and forasmuch as your orator is remediless in the premises by the strict rules of the common law, and can only have adequate relief in a court of equity, where matters of this nature are properly cognizable and relievable:

To the end, therefore, that the said George S. Cameron, president of the said bank, and J. A. Bradley, cashier, and George S. Cameron, James Hemphill, John J. McLure, now receiver, William Colwell, S. W. Mobley, W. H. Gill, and Springs, directors of the said bank and stockholders of the said bank, when discovered may, if they can, show why your orator should not have the relief hereby prayed, and that they may, upon their several and respective coporal oaths and to the best of their knowledge and belief, true, direct, and perfect answer make to the several interrogatories hereinafter mentioned and set forth, that is to say, whether the said bank was not chartered as aforesaid; whether it did not become organized and act upon the liberties and franchises of said charter until its failure aforesaid; whether it did not issue bills of credit or promissory notes, payable on demand to bearer, to a large amount; whether, on the first day of March, A. D. 1865, the said bank was not indebted to an amount far exceeding its assets, and whether it had not failed; whether the said bank, some time previous to the first day of December, A. D. 1869, had not failed to pay their bills of credit, and whether the said bank did not continue so to fail to pay the said bills up to the first day of December, A. D. 1869; whether, subsequently, on the day of , John J. McLure was not appointed by the honorable William M. Thomas, circuit judge of the sixth circuit of the said State, receiver of the property and assets of the said bank, and whether the said John J. McLure did not under the said order take charge of the assets of the said bank as receiver as aforesaid; whether, on the eighth day of January,

A. D. 1870, by an order of the said William M. Thomas, circuit judge as aforesaid, the creditors and billholders of the said bank were not enjoined from proceeding at law against the said bank, and that the said George S. Cameron, president, and J. A. Bradley, cashier, and George S. Cameron, James Hemphill, John J. McLure, now receiver, William Colwell, S. W. Mobley, W. H. Gill, and A. Baxter Springs, directors of the said bank, may each of them set forth a list or schedule of all persons who were stockholders of the said bank at the time of its
15 failure or who were interested therein within twelve months previous to said failure, and what were their respective quotas of the capital stock of the said bank; that an account may be taken by and under the direction of this honorable court of the claim of your orator and of all other debts due by the said bank and remaining unpaid, and that all and singular the billholders and creditors of the said bank may be summoned and notified by the order of this honorable court to come forward according to the course and practice of this court to establish the claim due by the said bank to them, and that an account may be taken of the assets of the said bank, and that the same may be administered by this honorable court and applied to the payment in due course of law of the billholders and other creditors of the said bank who may come in and contribute to the expense of this suit, and that this honorable court may grant a decree or decrees against each and every one of the stockholders of the said bank, when they shall be discovered, in such form and to such extent as to this court
16 may seem meet and proper, and that your orator may have such other and general relief as to this honorable court on a full hearing may seem proper:

May it please your honors to grant unto your orator the most gracious writ of subpœna of the United States of America to be directed to the said John J. McLure, receiver, to George S. Cameron, president, to J. A. Bradley, cashier, and to George S. Cameron, James Hemphill, John J. McLure, now receiver, William Colwell, S. W. Mobley, W. H. Gill, and A. B. Springs, directors, and to the stockholders of the said bank, when they shall be discovered, thereby commanding them and every of them, at a certain day and under a certain pain therein to be specified, personally to be and appear before your honors in this honorable court, and then and there to answer all and singular the premises, and to stand to, perform, and abide such order and decree therein as to your honors shall seem meet, and your orator will ever pray.

CHAMBERLAIN & SEABROOK,
Solicitors for Complainant.

17 No. 3.

Affidavit.

THE STATE OF SOUTH CAROLINA.
Richland County:

E. B. Seabrook, being duly sworn, says he is of counsel for the complainant in this action; that the foregoing complaint is true, of his own knowledge, except as to those matters stated on information and belief, and as to those matters he believes it to be true. Deponent further says that the reason the verification is not made by said complainant is that he is not within the State.

E. B. SEABROOK.

Sworn to before me this second day of December, 1870.

M. J. CALNAN,
Notary Public.

No. 4.

Subpœna ad respondendum.

UNITED STATES OF AMERICA,
Circuit, State of South Carolina:

The President of the United States of America, to John J. Mc-
18 Lure, George S. Cameron, president, J. A. Bradley, cashier, George S. Cameron, James Hemphill, John J. McLure, now receiver, William Colwell, S. W. Mobley, W. H. Gill, and A. B. Springs, directors of the Bank of Chester, S. C.:

You are hereby strictly commanded and firmly enjoined that, all manner of excuses being laid aside, you be and appear before the judges of the circuit court of the United States for the district of South Carolina, at Charleston, on the first Monday of April next, twenty days after the service thereof, then and there true and perfect answer to make, upon your corporal oath on the Holy Evangelists, to all such matters as shall be objected against you in the bill of complaint of Harvey Terry, a citizen of Virginia.

And, also, that you do, on the rules day next immediately after the day appointed and expressed, file or cause to be filed, in the registry of said court, your plea, answer, or demurrer, to the said bill of complaint. Hereof fail not, under the pain of one hundred pounds.

Given under the seal of the said court.

19 Witness the honorable S. P. Chase, Chief Justice of the United States of America, at Columbia, in South Carolina, district aforesaid, the thirteenth day of December, in the year of our Lord one thousand eight hundred and seventy, and in the ninety-fifth year of the sovereignty and Independence of the United States of America.

[SEAL.] DAN'L HORLBECK,
C. C. C. U. S. for S. C.

CHAMBERLAIN, SEABROOK & DUNBAR,
Complainant's Solicitors.

No. 5.

Marshal's returns.

UNITED STATES MARSHAL'S OFFICE,
SOUTH CAROLINA DISTRICT,
Charleston, 13 *Feb'ry*, 1871.

I hereby depute John W. Walker, sheriff & spec. dep. U. S. M., to execute the within process.

L. E. JOHNSON,
U. S. Marshal.

187 .

I hereby certify that I executed the within process by serving, personally, a copy of the within subpœna on John J. McLure, re-
20 ceiver, J. J. McLure, dir'ct., J. A. Bradley, cash., Wm. Colwell, dir'ct., S. W. Mobley, dir'ct., A. B. Springs, dir'ct., W. H. Gill, not served, dead, & Jas. Hemphill, dir'ct., on the 22 day of February, 1871.

JOHN W. WALKER,
Special Deputy.

CHARLESTON, , 187 .

I hereby depute S. D. Shannon spec. dep. U. S. marshal to execute the within process.

S. E. JOHNSON,
U. S. Marshal.

187 .

I hereby certify that I executed the within process by leaving a copy of within subpœna for Geo. S. Cameron, pres'd't, & copy for Geo. S. Cameron, at his accustomed place of business, on the 11th day of Feb., 1871.

S. D. SHANNON,
Special Deputy.

And on the 31st day of March, A. D. 1871, came into court the complainant, Harvey Terry, by his solicitors, Chamberlain, Seabrook
21 and Dunbar, and filed the following amendment, which amendment is in the words and tenor following :

No. 6.

Amendment.

Harvey Terry, of Richmond, and a citizen of Virginia, brings this his bill against John J. McClure, receiver of the Bank of Chester, South Carolina, of the county of Chester, and a citizen of the State of So. Carolina, and Geo. S. Cameron, of Charleston, a citizen of the State of South Carolina, and E. A. Bradley, of the county aforesaid, and citizen of the State of South Carolina, and Jas. Hemphill, a citizen of the State of South Carolina, and William Colwell, a citizen of So. Carolina; S. W. Mobley, of the county aforesaid, a citizen of the State of South Carolina; and W. H. Gill, of the county aforesaid, and citizen of the State of South Carolina; and A. B. Springs, a citizen of the State of South Carolina, and others, stockholders, yet to be discovered.

CHAMBERLAIN, SEABROOK & DUNBAR,
Sols. for Compl'n't.

Filed 31st March, 1871.

22 And on the 28th day of April, A. D. 1871, came into court the complainant, Harvey Terry, by his solicitors, Chamberlain and Seabrook, and obtained the following order to amend bill, which order is in the words and tenor following :

No. 7.

Order to amend bill.

UNITED STATES OF AMERICA,
Circuit :

In equity.

HARVEY TERRY
vs.
JOHN J. MCLURE, RECEIVER OF THE BANK of Chester, S. C., et al.

On motion of Chamberlain & Seabrook, solicitors for complainant, it

is ordered that the complainant have leave to amend the interrogatories of his said bill, by inserting after the words, "And what were their respective quotas of the capital stock of the said bank," the words, "And
23 that the said George S. Cameron, J. A. Bradley, James Hemphill, William Colwell, S. W. Mobley, W. H. Gill, and A. Baxter Springs, may each of them set forth such names of persons, stockholders of the said bank at the time of the said alleged failure, or twelve months previous to the same, as may be known to each of them, and that each of them, the said defendants, may set forth the number of shares of the capital stock of the said bank held by each of them, the said defendants, at the time of the said alleged failure, or twelve months previous to the same;" and it is further ordered that the said defendants may each of them full, true, and perfect answer make to the amended interrogatories of the said bill on or before the next succeeding rule day of this court.

28th July, 1871.

GEO. S. BRYAN,
U. S. Judge, Dist. of So. Ca.

And on the 3rd day of May, A. D. 1871, came into court the defendants, James Hemphill, S. W. Mobley, and William Caldwell, by their solicitor, James H. Rion, and filed the following demurrer and
24 plea; which demurrer and plea is in the words and tenor following:

No. 8.

Demurrer and plea.

In the circuit court of the United States. In equity, 1871.

UNITED STATES OF AMERICA,
South Carolina District:

The demurrer and plea of James Hemphill, Samuel W. Mobley and William Caldwell, in the bill named as directors of the Bank of Chester, South Carolina, three of the defendants, to the bill of Harvey Terry, complainant.

These defendants, by protestation, not confessing or acknowledging all or any of the matters and things in the said bill of complaint contained to be true in such manner and form as the same are therein and thereby set forth and alleged, do demur to the said bill, and for cause of demurrer shew:

That as appears from complainant's said bill, the Bank of Chester, South Carolina, has forfeited its corporate rights and privileges by virtue of an act of the general assembly of the State of South Carolina, in such behalf made and provided; and that it does not appear from
25 said bill that the said act of the general assembly in any manner or words provided for a continuation of the liability of the stockholders of the said bank after such forfeiture of its corporate rights and privileges.

For a further cause of demurrer, these defendants shew that it does not appear from the complainant's said bill of complaint that the act of the general assembly of the State of South Carolina providing for the liability of the stockholders of said Bank of Chester, South Caro-

lina, upon the failure thereof, gives any right of action against them to parties holding the bills of said bank.

Wherefore, and for divers other good causes of demurrer, appearing in the said bill, these defendants pray the judgment of this honorable court, whether they shall be compelled to make any answer to such parts of the said bill as they have hereinbefore demurred to.

And these defendants, not waiving their said several demurrers, but wholly relying thereon, as to so much of said bill as seeks from
26 these defendants a discovery of all persons who were stockholders of the said bank at the time of its failure, or interested therein within twelve months previous to said failure, and what were their respective quotas of the capital stock of the said bank, do plead thereto, and for plea say, that these defendants are unable to furnish a schedule of the stockholders of the said Bank of Chester, South Carolina, as prayed for in said bill.

And as to the other matters sought to be discovered by the complainant from these defendants, these defendants do likewise plead thereto, and for plea say, that the said complainant is not entitled to the discovery sought for, because he is not entitled to maintain his said bill against the said stockholders, for the following reasons:

1. Because the complainant did not exhibit his bill within six months after the time the stockholders became liable to the penalty imposed by the said fourth section of the act of the general assembly of the State of South Carolina, referred to in his bill.

2. Because the cause of action stated in the bill did not accrue within four years before the exhibiting thereof.

27 3. Because the assetts of the said Bank of Chester, South Carolina, have not yet been exhausted, nor has their value been ascertained.

4. Because it has not yet been ascertained what is the amount of the liabilities of the said bank.

5. Because the complainant hath recovered no judgment upon the bills alleged to be held by him against the said bank.

6. Because by the second section of the act entitled "An act to re-charter the Planters and Mechanics' Bank, the Commercial Bank of Columbia, &c., &c.," passed on the 16th day of December, A. D. 1852, it is provided that the said Bank of Chester, South Carolina, shall be subject to all the provisions of an act passed on the 18th day of December, A. D. 1840, entitled "An act to provide against the suspension of specie payments by the banks of this State," and by the fifth section of the first above mentioned act, it is also provided that "it shall not be lawful for the said [Bank of Chester, South Carolina], except in settlements with other banks, to pay or deliver in payment or sat-
28 isfaction of any demand upon it or by way of loan or discount, any bill, note, check, or paper of any other bank." That the operation of said second and fifth sections was suspended by an act of the said general assembly, passed on the 21st day of December, A. D. 1857, and continued to be suspended by other subsequent acts until the said Bank of Chester, South Carolina, became insolvent and failed, whereby whatever liability may have been imposed upon the stockholders by the fourth section of the aforesaid act passed on the 16th day of December, A. D. 1852, became and was in law removed and annulled.

And for a further plea, by leave of the court first had and obtained, these defendants say that all the creditors of the said Bank of Chester, South Carolina, should have been made parties to these proceedings.

And for a further plea, by leave of the court first had and obtained,

these defendants say, the said William Caldwell, for himself, that
29 he is not a director of the said Bank of Chester, South Carolina, as in the bill he is alleged to be, and that he never has been a director of the said bank; and the said James Hemphill and Samuel W. Mobley, for themselves, say that they are not directors of said Bank of Chester, South Carolina, as in said bill they are alleged to be, and have not been since the first Monday in May in the year 1865.

All which matters and things these defendants aver to be true, and they plead the same in bar to so much of said bill as is hereinbefore pleaded to, and they humbly pray the judgment of this honorable court whether they ought to make any further answer to so much of said bill as is hereinbefore pleaded to.

JAS. H. RION.
Defendants' Solicitor.

No. 9.

Affidavit.

STATE OF SOUTH CAROLINA,
County of Chester:

James Hemphill, Samuel W. Mobley, and William Caldwell,
30 the defendants aforenamed, being severally duly sworn, say, each for himself, that the matters and things contained in the foregoing pleas are true to the best of his knowledge, information, and belief; and that the foregoing demurrer and pleas are not interposed for delay.

WM. CALDWELL.
SAM. W. MOBLEY.
JAMES HEMPHILL.

Sworn to before me this 24th day of April, A. D. 1871.
JOHN J. HEMPHILL,
Trial Justice.

No. 10.

Certificate of solicitor.

I hereby certify that, in my opinion, the foregoing demurrers and pleas are well founded in law.

Given under my hand this 29th day of April, 1871.
JAS. H. RION, *Sol'r.*

And on the 14th day of May, A. D. 1875, came into court the complainant, Harvey Terry, per se, and obtained the following order for leave to amend bill, which order is in the words and tenor following:

No. 11.

Order.

31 In circuit court. In equity.

HARVEY TERRY
vs.
BANK OF CHESTER AND JOHN J. MCLURE, receiver, et al.

On motion of the complainant, and upon hearing and reading the

amendments proposed to the original bill in the above-stated cause, and after hearing argument in favor thereof by the complainant, and after hearing Geo. D. Bryan, esq., on behalf of the defendant, the same having been duly considered by the court, it is hereby ordered by the court that the complainant do have leave to amend his bill in the words and form proposed, upon the payment of costs in the suit up to this time, and that he serve a fair copy thereof on the defendants' counsel within fifteen days from the filing of this order, and that the defendants have leave to answer the amended bill within days from this date.

Approved, Charleston, May 14th, 1875.

HUGH L. BOND,
Ct. Judge.

32 And on the 14th day of May, A. D. 1875, came into court the complainant, Harvey Terry, per se, and filed the following amended bill, which amended bill is in the words and tenor following:

No. 12.

Amended bill.

UNITED STATES OF AMERICA:

In the United States circuit court for the district of South Carolina. Fourth circuit. In equity.

HARVEY TERRY
vs.
BANK OF CHESTER ET AL.

Amended complaint.

To the honorable the judges of the United States in and for the district of South Carolina, sitting in equity:

Humbly complaining, sheweth unto your honors your orator, Harvey Terry, a citizen of the State of Virginia, in behalf of himself, and all others the creditors of the Bank of Chester, South Carolina, who shall come and seek relief by and contribute to the expences of this suit against George S. Cameron, James Hemphill, John J. McLure, William Colwell, S. W. Mobley, W. H. Gill, A. Baxter Springs, John A.
33 Bradley, stockholders of the Bank of Chester, citizens of the State of South Carolina, and all other stockholders of the Bank of Chester, when discovered, and says:

That by an act of the general assembly of the State of South Carolina, entitled "An act to incorporate the Planters and Mechanics' Bank of South Carolina," ratified on the twentieth day of December, A. D. 1810, the several persons in said act named, their successors and associates, were incorporated under the name of "The Planters and Mechanics' Bank of South Carolina," with certain powers and privileges, as in and by the said act, reference thereunto being had, will more fully appear, and that said charter was renewed with a continuance of all privileges then enjoyed under the original charter as aforesaid by act of the general assembly of the said State, entitled "An act to renew the charter of the Planters and Mechanics' Bank and of the Union Bank of South Carolina," ratified on the eighteenth day of December, A. D., 1830, for the term of twenty-one years from the day on which the original char-

34 ter of the said bank would have expired, and the said charter was again renewed with a continuance of all privileges enjoyed under the original charter as aforesaid by act of the general assembly of the said State entitled "An act to re-charter the Planters and Mechanics' Bank of South Carolina, the Union Bank of South Carolina, the Commercial Bank of Columbia, South Carolina, and to incorporate the Exchange Bank of Columbia, the Farmers' and Exchange Bank, and the People's Bank of Charleston, the Bank of Newberry, the Bank of Chester, the Bank of Sumterville, the Planters' Bank of Fairfield, and the Western Bank of South Carolina, at Anderson," ratified on the sixteenth day of December, A. D. 1852, for twenty-one years from the first day of January, A. D. 1853.

That by the last mentioned act the aforesaid Bank of Chester, South Carolina, was incorporated with all the powers and privileges of the said Planters and Mechanics' Bank of South Carolina, as in and
35 by the said act, reference thereunto being had, will more fully appear, and that by the said act the said Bank of Chester, South Carolina, was incorporated for the period of twenty-one years from the first day of January, A. D. 1853.

That in and by the said acts the said bank was duly organized and became vested with all the rights, privileges, and powers therein granted, and among others, the right to issue bills and notes as a circulating medium and payable by the said bank, in coin, on demand, to receive and hold moneys on deposit, to make loans and deal in exchange, foreign and domestic, and to transact, generally, such operations and business as legitimately belong to a banking institution, and in and by the said acts it was also provided that the said bank should be liable to such regulations as the general assembly should at any time impose as in and by the said acts incorporating the said bank upon reference thereunto will more fully appear.

And your orator further sheweth unto your honors that from the date of the said incorporation the said bank has, until within a short
36 period anterior to the filing of this bill, used and enjoyed the powers and privileges conferred by the said act, and engaged in the business of banking with a capital of five hundred thousand dollars, divided into shares of twenty five dollars each share, and has issued its bills and notes to a large amount, and has made contracts and become indebted to divers persons in large sums of money.

And your orator further sheweth unto your honors that, in and by the aforesaid act of the general assembly of the State of South Carolina, it is provided that, in case of the failure of the said bank, each stockholder, copartnership, or body politic having a share or shares in the said bank at the time of such failure, or who shall have been interested therein at any time within twelve months previous to such failure, shall be liable and held bound individually for any sum not exceeding twice the amount of his, her, or their share or shares.

And your orator further sheweth unto your honors that, on the first day of March, A. D. 1865, and indeed at an earlier date, the said
37 bank had failed, being then indebted to an amount far exceeding its assets, and that in consequence of such failure, in accordance with the provisions of the said act, the stockholders, copartnerships, and bodies politic holding shares in said bank, or who had been interested therein within the twelve months previous to such failure, became liable for the debts of the said bank for sums not exceeding twice the amount of the shares held by them respectively.

And your orator further sheweth unto your honors that, by an act of

the general assembly of the said State, entitled "An act to enable the banks of the State to resume business or to place them in liquidation," approved March the thirteenth, A. D. 1869, it was provided in words as follows, that is to say, "That all banks incorporated by the authority of this State, and which have by said authority issued bills of credit known as bank bills, and have failed to comply with said corporate privileges by refusing to pay their bills of credit, and are now thus failing to comply with the provisions of said act of incorporation in
38 this particular, and shall so continue to violate said act until the first day of December, A. D. 1869, shall forfeit all corporate rights and privileges, and are forbidden to transact any business as banking institutions"; and in the second section of the last mentioned act it is provided that the judge of the circuit in which such bank or banks may be situated, upon notification made to him of each and every bank failing to comply with the requirements of the first section of the same act aforesaid, shall appoint a suitable person as receiver of the property and assets of each of the aforesaid banks, who shall, after having filed a bond, with good and sufficient surety to be approved by the said judge, take charge of the property and assets of the bank.

And your orator further sheweth unto your honors that the said Bank of Chester, South Carolina, some time previous to the said first day of December, A. D. 1869, failed to pay their bills of credit known as bank bills, and continued so to fail to pay their bills of credit up to the
39 said first day of December, A. D. 1869, and that subsequently, on the day of , in accordance with the provisions of the said act last mentioned, on the application of W. H. Brawley, solicitor of the sixth circuit of the said State, John J. McClure was, by an order made by the honorable William M. Thomas, circuit judge of the sixth circuit, duly appointed receiver of the property and assets of the said bank, and thereafter and before the commencement of this action he gave his bond, as required by said order as such receiver, and took charge of the assets of the said bank.

And your orator further sheweth unto your honors, that on the eighth day of January, A. D. 1870, on motion of said W. H. Brawley, it was ordered by the said William M. Thomas, circuit judge of the sixth circuit, that all creditors and bill-holders of the said bank be enjoined from proceeding at law against the said bank.

And your orator further sheweth unto your honors, that of the said bills of credit of the said bank, or promissory notes payable on demand to bearer, and constituting a portion of the circulating medium
40 intended to be furnished by the said bank in accordance with its charter, a large amount in the regular course of trade, and for valuable consideration, came to your orator, to wit, the amount of eight thousand and twenty dollars, which said bills are the property of your orator, and set forth as to dates and amounts in a schedule hereunto annexed (marked Exhibit A), and prayed to be taken as a part of this bill, and now in the hands of the solicitor of your orator, and ready to be produced when required; in virtue whereof your orator is entitled to have of the assets of the said bank, if they be sufficient to discharge all its debts and liabilities, payment in full as well of the principal as of interest, and if the said assets are not sufficient, the proportion to which, on a division of the same to all bill holders and creditors, your orator may be entitled, "but no accounting by said receiver is demanded in this action, because no assets of said bank exist wherewith to pay any material part of said debts, and said bill is hereby dismissed as to said receiver;" and in virtue whereof your orator is also entitled to pay-

41 ment of his debt, out of the property of all persons who were stockholders of the said bank at the time of its failure, or were interested therein at any time within twelve months previous to said failure, according to provisions of the act aforesaid; that George S. Cameron was a stockholder and held eight thousand shares (more or less) of the capital stock of said Bank of Chester, of the value of twenty-five dollars each share, at the date or within 12 months of its failure; that James Hemphill was a stockholder and held four hundred shares (more or less) of the capital stock of said Bank of Chester, of the value of twenty-five dollars each share, at the date or within 12 months of its failure; that John J. McClure was a stockholder and held three hundred and fifty shares (more or less) of the capital stock of said Bank of Chester, of the value of twenty-five dollars each share, at the date or within 12 months of its failure; that William Colwell was a stockholder, and held two hundred and fifty shares (more or less) of the capital stock of said Bank of Chester, of the value of twenty-
42 five dollars each share, at the date or within 12 months of its failure; that S. W. Mobley was a stockholder and held three hundred shares (more or less) of the capital stock of said Bank of Chester, of the value of twenty-five dollars each share, at the date or within 12 months of its failure; that W. H. Gill was a stockholder, and held four hundred shares (more or less) of the capital stock of said Bank of Chester, of the value of twenty-five dollars each share, at the date or within 12 months of its failure; that A. Baxter Springs was a stockholder, and held six hundred shares (more or less) of the capital stock of said Bank of Chester, of the value of twenty-five dollars each share, at the date or within 12 months of its failure; that John A. Bradley was a stockholder and held fifty shares (more or less) of the capital stock of said Bank of Chester, of the value of twenty-five dollars each share, at the date or within 12 months of its failures.

And all shares so held were of the par value of twenty five dollars each share as paid into the capital stock of said bank.

That each and all of the stockholders of said bank by subscrip-
43 tion or purchase of shares assumed the responsibility of joint makers of the bank notes of said bank, and, by the terms of said charter, the holders of shares therein at the date or within 12 months of its failure, became the co-obligors to pay the debts and bank notes of said bank outstanding to the bearer thereof.

That the measure of the liability of said stockholders was set out, liquidated and declared to be double the value of the shares subscribed under said charter.

That for the reasons and facts aforesaid your orator charges that your orator is entitled to a full discovery of the list of all persons who were stockholders at the time of the failure of the said bank "and the number of shares held by each," or were interested at any time within twelve months previous to said failure; and that your orator has frequently, previous to the first day of December, A. D. 1869, and subsequently, applied to the then president and directors of the said bank for the said list, but they have absolutely refused to comply with such request, and do still refuse; that your orator is entitled to pursue on the equity
44 side of this court the said stockholders where discovered, and is entitled to a full payment of his claim against the said bank out of the property of the said stockholders of the said bank, and other persons who were interested therein within twelve months previous to the failure of the said bank, where discovered, upon their liability under the provisions of the said charter and the act of the general assembly amend-

ing the same; and that your orator is entitled to a full discovery of the facts as charged. In tender consideration whereof, and forasmuch as your orator is remediless in the premises by the strict rules of the common law, and can only have adequate relief in a court of equity, where matters of this nature are properly cognizable and relievable:

To the end therefore that the said George S. Cameron, president of the said bank, and J. A. Bradley, cashier, and George S. Cameron, James Hemphill, John J. McClure, now receiver, William Colwell, S. W. Mobley, W. H. Gill, and A. Baxter Springs, stockholders and
45 directors of the said bank, when discovered may, if they can, show why your orator should not have the relief hereby prayed; and that they may upon their several and respective corporeal oaths, and to the best of their knowledge and belief, true, direct, and perfect answer make to the several interrogatories hereinafter mentioned and set forth, that is to say:

Whether the said bank was not chartered as aforesaid; whether it did not become organized and act upon the liberties and franchises of said charter until its failure aforesaid; whether it did not issue bills of credit or promissory notes payable on demand to bearer to a large amount; whether on the first day of March, A. D. 1865, the said bank was not indebted to an amount far exceeding its assets, and whether it had not failed; whether the said bank some time previous to the first day of December, A. D. 1869, had not failed to pay their bills of credit, and whether the said bank did not continue so to fail to pay the said bills up to the first day of December, A. D. 1869; whether subsequently, on the day of , John J. McClure was appointed by
46 the Hon. William M. Thomas, circuit judge of the sixth circuit of the said State, receiver of the property and assets of the said bank; and whether the said John J. McClure did not, under the said order, take charge of the assets of said bank as receiver as aforesaid.

Whether on the eighth day of January, A. D. 1870, by an order of the said William M. Thomas, circuit judge, as aforesaid, the creditors and bill-holders of the said bank were not enjoined from proceeding at law against the said bank; and that the said George S. Cameron, president, and J. A. Bradley, cashier, and George S. Cameron, James Hemphill, John J. McClure, now receiver; Wm. Colwell, S. W. Mobley, W. H. Gill, and A. Baxter Springs, directors of the said bank, may each of them state whether the number of shares as above alleged to have been held by each of said directors is not the correct number; and if not correct, to state the exact number of shares held by each, and set forth
a list or schedule of all persons who were stockholders of the said
47 bank at the time of its failure, or who were interested therein within twelve months previous to said failure, and what were their respective shares of the capital stock of the said bank; that an account may be taken by and under the direction of this honorable court of the claim of your orator, and of all other debts due by the said bank and remaining unpaid; and that all and singular the bill-holders and creditors of the said bank may be summoned and notified, by the order of this honorable court, to come forward, according to the course and practice of this court, to establish the claims due by the said bank "and stockholders" to them, the bill-holders and other creditors of the said bank, who may come in and contribute to the expense of this suit; and that this honorable court may grant a decree or decrees against each and every one of the stockholders of the said bank, when they shall be discovered, in such form and to such extent as to this court may seem meet and proper; and that your orator may have such other and

general relief as to this honorable court, on a full hearing, may seem proper.

48 May it please your honors to grant unto your orator the most gracious writ of subpœna of the United States of America, to be directed to the said John J. McClure, receiver, to George S. Cameron, president, to J. A. Bradley, cashier, and to Geo. S. Cameron, James Hemphill, John J. McClure, now receiver, William Colwell, S. W. Mobley, W. H. Gill, and A. B. Springs, directors, and to the stockholders of the said bank, when they shall be discovered, thereby commanding them, and every of them, at a certain day and under a certain pain therein to be specified, personally to be and appear before your honors in this honorable court, and then and there to answer all and singular the premises, and to stand to, perform, and abide such order and decree therein as to your honors shall seem meet: and your orator will ever pray.

HARVEY TERRY,
Complainant per se.

And on the 10th day of June, A. D. 1875, came into court the defendants, Jas. Hemphill, John J. McLure, S. W. Mobley, William
49 Caldwell, and A. B. Springs, by their solicitor, James H. Rion, and filed the following answer, which answer is in the words and tenor following:

No. 13.

Answer.

UNITED STATES OF AMERICA.
South Carolina District:

In the circuit court, fourth circuit. In equity.

The joint and several answer of James Hemphill, John J. McLure, William Caldwell, S. W. Mobley, and A. Baxter Springs, five of the defendants to the amended bill of complainant of Harvey Terry, complainant, against these defendants and others.

These defendants now and at all times hereafter saving and reserving to themselves all benefit and advantage of exception which can or may be had or taken to the many errors, uncertainties, and other imperfections in the said complainant's said bill of complaint contained, for answer thereunto, or unto so much and such parts thereof as these defendants are advised is and are material for them to answer unto, these defendants answering, say:

That they admit that the Bank of Chester was a body corporate
50 created by the laws of the State of South Carolina, and organized in pursuance of the act of the general assembly thereof, passed on the 16th day of December, A. D. 1852, entitled "An act to recharter the Planters and Mechanics' Bank of South Carolina, the Union Bank of South Carolina, the Commercial Bank of Columbia, South Carolina, and to incorporate the Exchange Bank of Columbia, the Farmers' and Exchange Bank, and the People's Bank of Charleston, the Bank of Newberry, the Bank of Chester, the Bank of Sumterville, the Planters' Bank of Fairfield, and the Western Bank of South Carolina, at Anderson;" and that the said Bank of Chester was incorporated for a period of

twenty-one years from the first day of January, eighteen hundred and fifty-three.

That these defendants admit that the said Bank of Chester did act upon the liberties and franchises, in its said charter set forth, and did transact business as a bank, as stated in the complainant's said bill.

That these defendants deny all the other allegations in the said
51 complainant's said bill of complaint contained as to the rights and liabilities of the said Bank of Chester, as conferred and imposed by the said act, except that by the said act it was declared that the said Bank of Chester "shall have and possess the same rights and privileges, and be subject to the same duties, liabilities, obligations, regulations, and restrictions herein provided for the said Planters and Mechanics' Bank and Union Bank and Commercial Bank."

And they further deny that in and by the aforesaid act of the general assembly it is provided that in case of the failure of the Bank of Chester, each stockholder, copartnership, or body politic, having a share or shares in said bank at the time of such failure, or who shall have been interested therein at any time within twelve months previous to such failure, shall be liable and held bound individually for any sum not exceeding twice the amount of his, her, or their share or shares. And they farther deny that there is any provision in the charter of the said Bank of Chester, that in the event of the failure of said bank any stockholder shall be liable in any sum whatever for the redemption of the bills
52 of the said bank or for any of the debts of the said bank.

That these defendants admit that on or within a few days of the first day of March, eighteen hundred and sixty-five, the said Bank of Chester had failed, being then indebted to an amount far exceeding its assets.

That these defendants deny that owing to the refusal and failure of the said bank, the stockholders, copartnerships, and bodies politic, having a share or shares therein at the time of such failure, or who were interested therein at any time within twelve months previous to such failure, became liable for the debts of the said bank in sums not exceeding twice the amount of his, her, or their shares.

That these defendants admit that the act of the general assembly of this State aforesaid, entitled "An act to enable the banks of the State to resume business or to place them in liquidation," approved March 13, 1869, provided, "that all the banks incorporated by the authority of this State, and which have, by said authority, issued bills of credit known as bank bills, and have failed to comply with said corpor-
53 ate privileges, by refusing to pay their bills of credit, and are now thus failing to comply with the provisions of said act of incorporation in this particular and shall so continue to violate said act until the first day of December, A. D. 1869, shall forfeit all corporate rights and privileges, and are forbidden to transact any business as banking institutions."

That these defendants admit that by the second section of the last named act, the judge of the circuit in which any bank failing to comply with the requirements of the first section of the same is situated, is empowered, upon being notified of such failure, to appoint a suitable person as receiver of the property of such bank, who should take charge thereof, after giving such a bond as is required by said act.

That these defendants admit that at various times previous to the said first day of December, A. D. 1869, the said Bank of Chester refused to pay its bank bills, and failed to redeem the same, and continued so to fail and refuse until the first day of December, A. D. 1869.

54 That these defendants admit that subsequently, on or about the thirty-first day of December, 1869, in pursuance of the provisions of said last named act, upon a notification made by Hon. J. L. Neagle, comptroller-general of the State of South Carolina, that said Bank of Chester had failed to comply with the requirements of said act, John J. McLure was by an order made by the honorable William M. Thomas, circuit judge of the sixth circuit of said State, duly appointed receiver of the property and assets of the said bank; that he has duly entered into bond, in conformity to said act, and the said order, and has taken possession of the property and assets of the said bank.

That these defendants admit that on the 8th day of January, 1870, it was ordered by said Judge William M. Thomas, that all creditors and bill-holders of the said bank be enjoined from proceeding at law against the said bank.

These defendants further answering, say that they know not nor have they been informed save by the said complainant's said bill, and
55 cannot set forth as to their belief or otherwise, whether of the bills of credit of the said bank or promissory notes payable to bearer on demand, and constituting a portion of the circulating medium intended to be furnished by the said *said* bank in accordance with its charter, a large amount is the property of the complainant; or whether the same came to the complainant in the regular course of trade, or for valuable consideration; or whether Exhibit A is a true schedule of the dates and amounts of the bank bills alleged to be held by the complainant.

That these defendants deny that the complainant is entitled to have payment of his alleged debt out of the property of all persons who were stockholders of the said Bank of Chester at the time of its failure, or were interested therein at any time within twelve months previous to said failure.

And the defendant, James Hemphill, answering for himself, says that he was a stockholder, and held three hundred shares of the capital stock of the said Bank of Chester of the value of twenty-five dollars each share, at the date or within twelve months of the failure of
56 said bank; and the defendant, John J. McLure, answering for himself, says that he was a stockholder, and held five hundred shares of the capital stock of said bank of the value of twenty-five dollars each share, at the date or within twelve months of its failure; and the defendant, William Caldwell, answering for himself, says that he was a stockholder, and held five hundred shares of the capital stock of the said bank of the value of twenty-five dollars each share, at the date or within twelve months of its failure; and the defendant, S. W. Mobley, answering for himself, says that he was a stockholder and held four hundred shares of the capital stock of the said bank of the value of twenty-five dollars each share, at the date or within twelve months of its failure; and the defendant, A. Baxter Springs, answering for himself, says that he was a stockholder and held four hundred share of the capital stock of the said bank of the value of twenty-five dollars each share, at the date or within twelve months of its failure; but these defendants jointly and severally deny that they assumed the responsibility
57 of joint makers of the bank notes of said bank, or in any way became co-obligors to pay the debts and bank notes of said bank, outstanding to the bearer thereof.

And the said defendant, James Hemphill, further answering for himself, says that he has no knowledge of any stockholder of the said bank

other than those named in the complainant's bill, or the number of shares held by them, except the names following with the number of shares held by each, where recollected, set opposite to the name:

Mrs. Jane Hemphill, 400.	John H. Adams.	Margaret Moffatt.
Adam Walker, executor.	Nicholas Colvin.	Dr. A. P. Wylie.
N. R. Eaves.	C. D. Melton.	Robert W. Brice.
J. L. Harris, trustee.	Robert S. Hope.	John Steele.
Samuel Rainey.	James M. Brawley.	Mrs. Julia Henry.
R. C. Grier.	Harriet E. Henry.	James H. Witherspoon.
Lavinia Steele.	Joseph C. Peden.	T. R. Eggleston.
Mrs. C. Z. Mills.	Mrs. C. Q. McGowan.	John Brice.
Erskine Theological Seminary.	John Aiken, jr.	Philip Walker.
E. C. McLure, trustee.	Adam Walker.	Samuel McAliley.
William Knox.	William A. Walker.	
58 R. N. Hemphill.	J. N. Young, treasurer.	W. T. Robison.
John Cairns.	A. Stilemb, A. S.	Bennett, Wilson & Co.
L. McDonald.		

And the defendant, John J. McLure, further answering for himself, says that he has no knowledge of any stockholder of the said bank other than those named in complainant's bill, or the number of shares held by them, except the names following with the number of shares held by each, where recollected, set opposite to the name:

Josiah Bedon.	W. A. Walker.	H. H. De'Leon, ad'r.
S. McAliley.	Phineas Pierce.	J. M. Brawley.
Mary Potts.	J. B. Gaston.	W. J. Keenan, trustee.
Giles J. Patterson.	John Cairns.	Dr. A. P. Wylie.
N. R. Eaves.	William McLure.	J. C. Liffas.
Joseph H. Dogan, 400.	E. M. Kirkpatrick.	Rev. Henry Quigg.
J. Harvey Smith.	William E. White.	W. McCandless.
Joseph F. White.	Elizabeth McCandless.	Emery Thayer.
W. T. Gilmore.	E. C. Mowry.	B. McLure, 100.
A. S. J Perry, trustee.	M. C. Wysing, 200.	William Knox.
Mrs. P. A. Pride, 200.	S. P. Alexander.	
59 J. H. Adams.	Wm. E. Adams.	James S. Gibbes.
C. D. Melton.	Carn Randell.	N. M. Porter.
D. Gondelock.		

And the defendant, William Caldwell, further answering for himself, says that he has no knowledge of any stockholder of the said bank other than those named in complainant's bill, or the number of shares held by them, except the names following with the number of shares held by each, where recollected, set opposite to the name:

James Y. Mills. John F. Bigham.

And the defendant, S. W. Mobley, further answering for himself, says that he has no knowledge of any stockholder of the said bank other than those named in the complainant's bill, or the number of shares held by them, except the names following with the number of shares held by each, where recollected, set opposite to the name:

John Adams.	Cornelius Caldwell.	Robert Hemphill.
N. R. Eaves.	J. J. McLure.	William A. Walker.

60 And the defendant, A. Baxter Springs, further answering for himself, says that he has no knowledge of any stockholder of the said bank other than those named in the complainant's bill, or the number of shares held by them, except the names following with the number of shares held by each, where recollected, set opposite to the name:

Samuel P. Alexander.	Cornelius Caldwell.	Joseph Adams.
A. B. Davidson.	Robert Hemphill.	Dr. Samuel Wright.
John Poag.	J. N. McElwee, sen.	R. A. Springs.
Samuel McAliley.	S. Y. Tupper.	J. Leander Adams.
Peter M. Brown.	William E. White.	C. D. Melton.
James W. Kee.	J. Leslie Wright.	E. N. Springs.
Dr. M. M. Orr.	W. A. Walker.	R. C. Springs.
John H. Adams.	Giles J. Patterson.	A. S. Johnston, trustee.

And as to the prayer of said bill "that an account may be taken by and under the direction of this honorable court of the claims of your orator, and of all other debts due by the said bank and remaining unpaid, and that all and singular the bill-holders and creditors of
61 the said bank may be summoned and notified by the order of this honorable court to come forward, according to the course and practice of this court, to establish the claims due by the said bank and stockholders to them, the bill-holders and other creditors of the said bank, who may come in and contribute to the expenses of this suit," these defendants submit that this court has no jurisdiction of the cause in this behalf inasmuch as the court of common pleas for Chester County, in the aforesaid State of South Carolina, has heretofore under the proceedings mentioned in the complainant's bill taken an account of the claims of Harvey Terry, the complainant, and of all other debts due by the said Bank of Chester, and that all the bill-holders and creditors of the said banks have been summoned and notified by the order of said State court to establish the claims and demands due to them; that the complainant and other creditors have established such claims and demands, and have already received a dividend thereon, to wit, thirty six and one half per centum.

62 Further answering, these defendants say, for defences to the alleged cause of action set forth in the said complainant's said bill:

That the cause of action stated in the said bill did not accrue within four years before the commencement of this action.

And the defendant James Hemphill for himself says, that before the commencement of this action he had paid and redeemed fifteen hundred and thirty dollars of the bills of the Bank of Chester; and the defendant John J. McLure for himself says, that before the commencement of this action he had paid and redeemed twenty-one thousand three hundred & forty-five dollars of the bills of said bank; and the defendant William Caldwell for himself says, that before the commencement of this action he had paid and redeemed dollars of the bills of said bank; and the defendant A. Baxter Springs for himself says, that before the commencement of this action he had paid and redeemed twenty dollars of the bills of said bank, which bills they the above
63 named defendants have held ever since they paid and redeemed the same, and still now hold.

That before the commencement of this action the defendants had paid and redeemed, to wit: the defendant James Hemphill, fifteen hundred and thirty dollars of the bills of the said Bank of Chester; the defend-

ant John McLure, twenty-one thousand three hundred & forty-five dollars of the bills of said bank; the defendant William Caldwell, dollars of the bills of said bank, and the defendant A. Baxter Springs, twenty dollars of said bank; which said bills they now hold and have held ever since they paid and redeemed the same; and as to said bills and by virtue of their ownership thereof, they claim the same rights as though they were joined and made parties plaintiff in the said bill.

That before the commencement of this action the defendants had paid and redeemed, to wit: the defendant James Hemphill, fifteen hundred and thirty dollars of the bills of the said Bank of Chester; the defend-
64 ant John J. McLure, twenty-one thousand three hundred and forty-five dollars of the bills of said bank; the defendant William Caldwell, dollars of the bills of said bank; and the defendant A. Baxter Springs, twenty dollars of the bills of said bank; which bills they now hold and have held ever since they paid and redeemed the same; and they claim that any judgment they may obtain by reason of the premises, should they obtain any, should be set off against any judgment that may be obtained against them by reason of the premises, should any such judgment be obtained.

That, as is alleged in the complainant's bill, on the 13th day of March, A. D. 1869, an act was passed by the general assembly of the State of South Carolina, by which it was provided that unless the said bank should on or before the first day of December, 1869, commence paying its bills of credit, agree to redeem its bills, and in other respects comply with the provisions of the act incorporating the said bank, it, the said bank, should forfeit all corporate rights and privileges. That by said act, all acts and parts of acts inconsistent therewith were re-
65 pealed. That the said Bank of Chester did fail and has failed to pay its bills of credit, redeem its bills, and in any respect to comply with the provisions of the act incorporating the bank, before or on the said first day of December, 1869, and ever since, as set forth in complainant's said bill. That the said act of the general assembly in no manner or words provided for a continuation of the liability of stockholders of said bank, after said forfeiture of its corporate rights and privileges.

That long prior to the filing of the complainant's amended bill, to wit, on the first day of January, A. D. 1874, the charter of the said Bank of Chester expired by its own limitation, by reason of which and the non-existence of any act of the general assembly of the State of South Carolina providing for a continuation of the liability of the stockholders after such expiration of charter, there no longer exists any liability on the part of these defendants for any default of the said bank, or for any of the debts or outstanding bills of the said bank, provided any such liability ever did exist.

66 That the personal representatives of George S. Cameron, deceased, and W. H. Gill, deceased, have not been made parties defendant to the said bill of complaint.

And these defendants deny, and so forth, without this that there is any other matter, cause, or thing in the said complainant's said bill of complaint contained material or necessary for these defendants to make answer unto, and not herein and hereby well and sufficiently answered, confessed, traversed, and avoided and denied, is true to the knowledge or belief of these defendants; all which matters and things these defendants are ready and willing to aver, maintain, and prove as this honorable court shall direct, and humbly pray to be hence dismissed with

their reasonable costs and charges in this behalf most wrongfully sustained.

JAS. H. RION,
Defendants' Solicitor.

No. 14.

Affidavit.

STATE OF SOUTH CAROLINA,
County of Chester:

67 James Hemphill, John J. McLure, S. W. Mobley, William Caldwell, and A. Baxter Springs, being severally duly sworn, says for himself that the statements contained in the foregoing answer are true to his own knowledge except the matters therein stated on information and belief, and as to those matters he believes it to be true.

JAMES HEMPHILL.
JOHN J. McLURE.
SAM. W. MOBLEY.
A. B. SPRINGS.
WM. CALDWELL.

Sworn to before me this 4th day of June, 1875.
[SEAL.] GEO. W. CURTIS,
Notary Public.

The following named persons filed similar answers as above, to wit, Nicholas Colvin, J. M. White, ex'r, L. S. White, L. S. White, adm'r, John L. Harris, trustee, Margarett Moffett, James Hemphill, ex'r, B. J. Witherspoon, adm'r, J. N. Young, treasurer, John G. Steele, ex'r, B. B. Green, executrix, John A. Bradley, cashier.

And on the 5th day of July, A. D. 1875, came into court the complainant, Harvey Terry, per se, and filed the following replication,
68 which replication is in the words and tenor following:

No. 15.

Replication.

UNITED STATES OF AMERICA,
Fourth Circuit:

HARVEY TERRY
vs.
BANK OF CHESTER ET AL.

In the United States circuit court for the dist. of S. C. In equity.

The replication of Harvey Terry, plaintiff in this suit, to the joint and several answers of James Hemphill, John J. McClure, William Caldwell, S. W. Mobley, and A. Baxter Springs, defendants; answers filed in the above stated cause June 10, 1875.

This repliant, saving and reserving unto himself now and at all times hereafter all and all manner of benefit and advantage of exception which may be had or taken to the manifold insufficiencies of the said answers, for replication thereunto says:

That he will aver, maintain and prove his said bill of complaint to be true, certain and sufficient in law to be answered unto, and that the
69 answers of the said defendants are untrue, uncertain, and insufficient in law to be replied to by this repliant.

That this said cause of action accrued under a statute having the sanctity and validity of a specialty or contract under seal, and is not barred by the expiration of the charter of said bank, nor by the statute of limitations of the State of South Carolina; and this repliant denies that said defendants or either of them have paid and redeemed any part of their said statute liability due as charged in said bill of complaint, but that said answering defendants are simply creditors of said banking corporation, who should be allowed to prove their said several claims in said cause upon terms of equality with other billholders and creditors of said bank; no mutual accounts, credits or dealings existing between the plaintiff and said answering defendants, nor any other valid reason why said claims of said answering defendants should be placed in any better condition than the claims of the plaintiff in said cause, and that no payment or dividend whatever has been paid on the claims proposed to be proved in said cause by the plaintiff;
70 without this, that any other matter or thing whatever in the said answer contained, material or effectual in the law to be replied unto, and not herein and hereby well and sufficiently replied unto, confessed or avoided, traversed or denied, is true. All which matters and things this repliant is and will be ready to aver, maintain, and prove as this honorable court shall direct, and humbly prays as in and by his said bill he has already prayed.

HARVEY TERRY,
Complainant, per se.

No. 16.

Affidavit.

STATE OF SOUTH CAROLINA,
County of Richland:

Harvey Terry, being duly sworn, says that the statements contained in the foregoing replication to answers of James Hemphill, John J. McClure, William Caldwell, S. W. Mobley and A. Baxter Springs, defendants, is true to his own knowledge except as to things stated upon information and belief, and as to those matters he believes them to be true.
71

HARVEY TERRY.

Subscribed and sworn to before me this 2nd day of July, A. D. 1875.
JAS. G. THOMPSON,
U. S. Commissioner for South Carolina.

The complainant, Harvey Terry, per se, filed similar replications to the answers of the following named defendants, to wit: Nicholas Colvin, J. M. White, ex'r, L. S. White, L. S. White, adm'r, John L. Harris, trustee, Margarett Moffett, James Hemphill, ex'r, B. J. Witherspoon, adm'r, J. N. Young, treasurer, John G. Steele, ex'r, John A. Bradley, cashier.

And on the 17th day of June, A. D. 1878, came into court the complainant, Harvey Terry, per se, and obtained the following order for leave to make other stockholders parties, which order is in the words and tenor following:

No. 17.

Order.

UNITED STATES OF AMERICA,
South Carolina District:

In the circuit court, fourth circuit. In equity.

72 HARVEY TERRY
vs.
THE BANK OF CHESTER ET AL.

On hearing the answers of the defendants who have answered in this cause, it is ordered, on motion of Harvey Terry, the complainant, and by consent of Mr. Rion, defendant's solicitors, that the said complainant have leave to make the stockholders whose names have been discovered by said answers parties to the amended bill of complaint, by serving them or their legal personal representatives with a proper subpœna ad respondendum or by obtaining their acceptances of service upon such subpœna.

Given under my hand at Charleston, S. C., this the 17th day of June, A. D. 1875.

GEO. S. BRYAN,
U. S. Judge, Dist. of So. Ca.

I consent to the foregoing.

JAS. H. RION,
D'f's Sol'r.

No. 18.

Subpœna ad respondendum.

UNITED STATES OF AMERICA,
73 *Fourth Circuit, District of South Carolina:*

The President of the United States of America to Robert N. Hemphill, Samuel McAliley, Dr. A. P. Wylie, James Hemphill, surviving executor of Jane Hemphill, deceased; Adam Walker, executor for James Walker, deceased; C. C. Macoy, administrator for N. R. Eaves, deceased; J. L. Harris, trustee for M. & E. Harris; Lavinia Steele, Mrs. C. Z. Mills, E. C. McLure, trustee for Mrs. P. A. Pride; Nicholas Colvin, C. D. Melton, Robert S. Hope, Robert N. Hemphill, administrator for James M. Brawley, deceased; Harriett E. Henry, Joseph C. Pedan, Mrs. C. L. McGowan, John Aiken, jr., Alexander Walker, and Robert Walker, administrator of Adam Walker, deceased; William A. Walker, Margarett Moffatt, Rev. Robert W. Brice, John G. Steele, executor for John Steele, deceased; Mrs. Julia Henry, William Stringfellow, administrator of Philip Walker, deceased; L. C. McDonald, J. N. Young, treasurer of Erskine Theological Seminary; W. B. Williams, administrator for A. Stilwell, deceased; W. T. Robinson, John
74 B Cornwell, administrator for Jordon Bennett, deceased; Rudolph Brandt, surviving partner of Bennet, Wilson & Co.; Elias M. Kirkpatrick, W. A. Pedan, administrator for John F. Bigham, deceased; A. B. Davidson, C. C. Macoy, administrator for John Poag; R. B. Caldwell, administrator for Cornelius Caldwell, deceased; John

Adams, Susan J. Springs, executrix for R. A. Springs, deceased; John S. Bratton, and R. S. Hope, administrators for Samuel Rainey, deceased; Barbara S. Grier, executrix for R. S. Grier, deceased; John McDaniel, administrator for William Knox, deceased; A. S. Johnston, trustee; B. I. Witherspoon, administrator for James H. Witherspoon, deceased; John Cairns, John L. Harris, executor of William H. McLure, deceased; L. S. White, administrator for Joseph F. White, deceased; Mrs. P. B. Gaston, executrix of J. B Gaston; John M. White, executor for William E. White, deceased; Elizabeth McCandless, William McCandless, B. McLure, William E. Adams, Robert Mills, administrator for James Y. Mills, deceased; James W. Kee, J. Leslie Wright, Mrs. Ann E. Wright, executrix for Samuel
75 Wright, deceased; A. S. J. Perry, trustee for Mrs. Martha Perry; Phineas Pierce, E. C. Moury, M. C. Wysery, J. Leander Adams, personally, and J. Leander Adams, as executor for James H. Adams, deceased; Samuel P. Alexander, Emery Thayer, Carver Randall, James S. Gibbs, Norman M. Porter, John M. Brown and A. M. Burwell, administrators of Peter M. Brown, deceased; Dr. M. M. Orr, S. Y. Tupper, Mary Potts, Giles J. Patterson, personally, Giles J. Patterson, as administrator for J. C. Lipford, deceased; William H. Crosly, executor for Benjamin F. Arthur, who was executor for Joseph H. Dogan, deceased; J. Harvey Smith, T. J. Cureton, administrator of W. T. Gilmore, deceased; Joseph J. White, Mrs. P. A. Pride, J. M. White, executor of William E. White, deceased; Rev. Henry Quigg, Thomas H. Croft, as executor for George H. Cameron, deceased; Dr. David Lyle, as administrator for W. H. Gill, deceased; T. R. Eggleston, Agnes C. Brice, now Agnes C. Mitchell, administratrix for John Brice, deceased; William Munro, administrator for William Keenan (trustee), deceased; Mrs. Caroline Goudelock, as executrix of Davis Goudelock, deceased; Josiah Bedan:

76 You are hereby strictly commanded and firmly enjoined that, all manner of excuses being laid aside, you be and appear before the judges of the circuit court of the United States for the district of South Carolina, at Charleston, on the first Monday of November next, twenty days after the service thereof, then and there true and perfect answer to make upon your corporal oath on the Holy Evangelists, to all such matters as shall be objected against you in the bill of complaint of Harvey Terry against the Bank of Chester and John J. McClure, receiver, et al.

And also that you do, on the rules day next, immediately after the day appointed and expressed, file or cause to be filed in the registry of said court your plea, answer, or demurrer to the said bill of complaint.

Hereof fail not under pain of one hundred pounds.

Given under the seal of the said court. Witness the honorable Morrison R. Waite, Chief Justice of the United States of America, at Charleston, in South Carolina district, the 30th day of Septem-
77 ber, in the year of our Lord one thousand eight hundred and seventy-five, and in the one hundredth year of the sovereignty and Independence of the United States of America.

[SEAL.]

J. E. HAGOOD,
C. C. C. U. S. Dist. S. C.
HARVEY TERRY,
Per se, Complainant's Solicitor.

NOTE.—Each of said respondents is hereby notified to enter an appearance in said suit in the clerk's office on or before the rules day next

ensuing, to wit, on 1st Monday of November, 1875, or otherwise the bill may be taken pro confesso.

HARVEY TERRY,
Complainant.

No. 19.

Acceptance of service.

I accept service of this subpœna ad respondendum for Nicholas Colvin, J. L. Harris, trustee of M. & E. Harris; J. N. Young, treasurer of Erskine Theological Seminary; L. S. White as administrator of Joseph F. White, deceased, and John M. White as executor of William E. White, deceased.

JAS. H. RION, *Sol'r.*

78 I accept service of this subpœna ad respondendum for C. D. Melton.
Oct. 5. 1875.

W. A. CLARK, *Sol'r.*

No. 20.

Marshal's return.

I hereby certify that on the dates below given, I served personally, through my special deputy U. S. marshal, in the several counties below named, the following named persons with a true copy of the within subpœna ad respondendum, and leaving the same with them.

HARVEY TERRY
vs.
BANK OF CHESTER AND JOHN J. MCLURE, receiver, et al.

Served personally, 1875, Oct. 28.—James Hemphill, surv. ex. Jane Hemphill, Giles J. Patterson, Giles J. Patterson, adm'r, J. C. Lifford, Dr. A. P. Wylie, Wm. T. Robinson, C. C. Macoy, adm'r, N. R. Eaves, C. C. Macoy, adm'r, John Poag, J. Harvey Smith, John L. Harris, ex., W. H. McLure, Brainerd McLure, R. Bvandt, surv'g partner
79 Bennet, Wilson & Co., N. A. Walker, Wm. Stringfellow, adm'r, Philip Walker, Mrs. C. Z. Mills, Elizabeth McCandless, and William McCandless, Rob't S. Hope.

Oct. 29.—John B. Conner, adm'r, Jordan Bennett, Robert N. Hemphries, Robert N. Hemphries, adm'r, Jas. M. Brawley, Alex. Walker, adm'r, Adam Walker, Robert Mills, adm'r, James G. Mills, Rev. R. W. Brice.

Oct. 30.—Samuel McAliley, at Chester, S. C.

Oct. 29.—Mrs. Margarett Moffett, Dr. Bond Lyle, adm'r, W. H. Grier, Mrs. P. B. Gaston, ex., Dr. J. B. Gaston, James W. Kee, at Chester C. H.

Oct. 30.—B. J. Witherspoon, adm'r of James H. Witherspoon, at Lancaster, S. C.

Oct. 23.—Wm. Munro, adm'r, Wm. Keenan, Mrs. Caroline Goudelock, ex. of Louis Goudelock, at Union, S. C.

Oct. 23.—Agnes C. Brice, now Agnes C. Mitchell, adm'r'x John Brice, deceased, at Fairfield, S. C.

Oct. 22.—Barbara S. Grier, ex. R. S. Grier, deceased, at Abbeville, S. C.

Oct. 24.—J. M. & S. E. White, ex. W. E. White, John G. Steele, ex. John Steel, at Yorkville, S. C.

Oct. 29.—John S. Bratton, R. S. Hope, adm'rs of Sam'l Rainey, W. B. Williams, adm'r, Alfred Stewell, John Carnes, J. Leslie Wright, on 30 Oct., Wm. E. Adams, on 30 Oct., 1875.

Oct. 14.—Phineas Pearce, Thos. H. Croft, adm'r of Geo. S.
80 Cameron, A. S. J. Perry, trustee for Mrs. Martha Perry, J. S. Gibbes, at Charleston, S. C.

Oct. 14.—A. S. Johnson, trustee, N. M. Porter, S. Y. Tupper, at Charleston, S. C.

R. M. WALLACE,
U. S. Marshal.

Sworn to before me Nov. 20, 1875.
[SEAL.]

J. E. HAGOOD,
C. C. C. U. S. Dist. S. C.

And on the 22nd day of November, A. D. 1875, came into court the defendants Giles J. Patterson, Robert N. Hemphill, Samuel McAliley, William McCandless, Robert S. Hope, Alexander Walker, James M. McDaniel, Susan J. Springs, J. Harvey Smith, W. T. Robison, Rudolph Brandt, William Stringfellow, John S. Bratton, P. B. Gaston, William A. Walker, Phineas Pierce, Robert W. Brice, J. Leslie Wright, S. Y. Tupper, Agnes C. Mitchell, William E. Adams, Robert Mills, James W. Kee, and John Cairns, by their solicitors, McCrady & Son, and obtained the following order to set aside services of subpœnas, which order is in the words and tenor following:

No. 21.

Order.

THE UNITED STATES OF AMERICA,
Fourth Circuit, Eastern District of South Carolina.

In equity.

81 HARVEY TERRY
vs.
BANK OF CHESTER AND JOHN J. MCCLURE, receiver, et al.

Now comes before this honorable court Giles J. Patterson, Robert N. Hemphill, Samuel McAliley, William McCandless, Robert S. Hope, Alexander Walker, James M. McDaniel, Susan J. Springs, J. Harvey Smith, W. T. Robison, Rudolph Brandt, William Stringfellow, John S. Bratton, P. B. Gaston, William A. Walker, Phineas Pierce, Robert W. Brice, J. Leslie Wright, S. Y. Tupper, and Agnes C. Mitchell, and William E. Adams, Robert Mills, James W. Kee, and John Cairns, who have been served with subpœnas to make answers for themselves or as administrators or executors of others to all such matters as shall be objected against them in the bill of complaint of Harvey Terry against The Bank of Chester and John J. McClure, receiver, et al., and upon examination of the record it appearing to the court that there is no allegation in the said bill against the said persons above named

82 so served with subpœnas in the said cause or any of them, and that they are not even mentioned in the said bill, and that no process is prayed against them, or any of them, in the said bill, on motion of McCrady & Son, solicitors for the said persons above named, it is hereby declared that the issuing of the said writs of subpœna to the said persons above named was irregular and the service thereof ineffective and void, and that the said persons above named are not bound to appear, answer, demur, or plead, according to the exigencies of the said writ, and that they are hereby allowed to go without day, with their costs for their attendance, and motion to be taxed by the clerk of this court.

It is further ordered that the clerk of this court do recall and vacate the said subpœnas so issued in the said cause to the said persons above named.

It is further ordered that the plaintiff have leave to amend his bill by adding the names of the persons hereinbefore mentioned with apt and proper words to charge them as parties defendants and inserting
83 their names as such upon paying the costs of the amendment, and this being so done, and the costs herein ordered being paid, the plaintiff have leave to obtain his subpœna for the said parties.

30th Nov., 1875.

GEO. S. BRYAN,
U. S. Judge Dist. of So. Ca.

And on the 30th day of November, A. D. 1875, came into court the defendant, Thomas H. Croft, executor of George S. Cameron, by his solicitors, Simons & Simons, and obtained the following order to recall and vacate service of subpœna, which order is in the words and tenor following:

No. 22.

Order.

UNITED STATES OF AMERICA,
Fourth Circuit District of South Carolina:

HARVEY TERRY
vs.
BANK OF CHESTER AND JOHN J. MCLURE, receiver, and others.

Now comes before this honorable court Thos. H. Croft, who has been served with subpœna styling him as executor for George H. Cam-
84 eron, deceased, to make answer to all such matters as shall be objected against him in the bill of complaint of Harvey Terry against the Bank of Chester and John J. McLure, receiver, et al., and upon examination of the record it appearing to the court that there is no allegation in the said bill against the said Thomas H. Croft so served with subpœna, and that he is not even mentioned in the said bill and no process is prayed against him.

On motion of Simons & Simons, solicitors for the said Thos. H. Croft, it is hereby declared that the issuing of the said writ of subpœna to the said Thos. H. Croft was irregular, and the service thereof ineffective and void; and that the said Thos. H. Croft is not bound to appear, answer, demur, or plead, according to the exigencies of the said writ, and that

he is hereby allowed to go without day, with his costs, for his attendance and motion to be taxed by the clerk of this court. It is further ordered that the clerk of this court do recall and vacate the said subpœna so issued to the said Thos. H. Croft.

85 It is further ordered that the plaintiff have leave to amend his bill by adding the name of the person hereinbefore mentioned, with apt and proper words to charge him as party defendant, and inserting his name as such upon paying the costs of the amendment, and this being done and the costs herein ordered being paid, the plaintiff have leave to obtain his subpœna for the said party.

30th Nov., 1875.

GEO. S. BRYAN,
U. S. Judge, Dist. of So. Ca.

And on the 30th day of November, A. D. 1875, came into court the defendant James S. Gibbes, by his solicitors, Simonton and Barker, and obtained the following order to recall and vacate subpœna, which order is in the words and tenor following:

No. 23.

Order.

THE UNITED STATES OF AMERICA,
District of South Carolina, Fourth Circuit:

In equity.

HARVEY TERRY
vs.
BANK OF CHESTER AND JOHN J McLURE, RECEIVER, et al.

Now comes before this honorable court James S. Gibbes, who

86 has been served with subpœna, to make answer to all such matters as shall be objected against him in the bill of complaint of Harvey Terry against the Bank of Chester and John J. McClure, receiver, et al., and upon examination of the record it appearing to the court that there is no allegation in the said bill against the said James S. Gibbes above named so served with subpœna in the said cause, and that he is not even mentioned in the said bill, and that no process is prayed against him in the said bill,

On motion of Simonton & Barker, solicitors, it is hereby declared that the issuing of the said writ of subpœna to the said person above named was irregular and the services thereof ineffective and void, and that the said James S. Gibbes, above named, is not bound to appear, answer, demur, or plead according to the exigencies of the said writ, and that he is hereby allowed to go without day with his costs for his attendance and motion to be taxed by the clerk of this court.

It is further ordered that the clerk of this court do recall and

87 vacate the said subpœna so issued in the said cause to the said person above named.

It is further ordered that the plaintiff do have leave to amend his bill by adding the names of the person hereinbefore mentioned with apt and proper words to charge him as party defendant, and inserting his name as such upon paying the costs of the amendment; and this

being done and the costs herein ordered being paid, the plaintiff have leave to obtain his subpœna for the said party.

30th Nov., 1875.

GEO. S. BRYAN,
U. S. Judge, Dist. of So. Ca.

And on the 30th day of November, A. D. 1875, came into court the defendant Norman M. Porter, by his solicitor, James G. Porter, and obtained the following order to set aside service of subpœna, which order is in the words and tenor following:

No. 24.

Order.

THE UNITED STATES OF AMERICA,
Fourth Circuit, Eastern District of South Carolina:

In equity.

88 HARVEY TERRY
vs.
BANK OF CHESTER AND JOHN J. McLURE, receiver, et al.

Now comes before this honorable court Norman M. Porter, who has been served with subpœna to make answer to all such matters as shall be objected against him in the bill of complaint of Harvey Terry against the Bank of Chester and John J. McLure, receiver, et al.; and upon examination of the record, it appearing to the court that there is no allegation in the said bill against the said Norman M. Porter, so served with subpœna in the said cause or any of them, and that he is not even mentioned in the said bill, and that no process is prayed against him in the said bill,

On motion of James G. Porter, solicitor, it is ordered that *that* the issuing of the said writ of subpœna to the said Norman M. Porter was irregular and the service thereof ineffective and void, and that
89 the said Norman M. Porter, above named, is not bound to appear, answer, demur, or plead according to the exigencies of the said writ; and the said Norman M. Porter is hereby allowed to go without day, with his costs for his attendance and motion to be taxed by the clerk of the court.

It is further ordered that the clerk of this court do recall and vacate the said subpœna so issued in the said cause to the said Norman M. Porter.

It is further ordered that the plaintiff have leave to amend his bill by adding the name of Norman M. Porter, hereinbefore mentioned, with apt and proper words to charge them as party defendant, and inserting his name as such upon paying the costs of the amendment, and this being done, and the costs herein ordered being paid, the plaintiff have leave to obtain his subpœna for the said party.

30th Nov., 1875.

GEO. S. BRYAN,
U. S. Judge Dist. of So. Ca.

And on the 30th day of November, A. D. 1875, came into court the defendants A. S. Johnston, trustee, and A. S. J. Perry, trustee,
90 by their solicitors, Buist and Buist, and obtained the following order to recall and vacate subpœna, which order is in the words and tenor following:

No. 25.

Order.

THE UNITED STATES OF AMERICA,
District of South Carolina, Fourth Circuit:

In equity.

HARVEY TERRY
vs.
BANK OF CHESTER AND JOHN J. McLURE, receiver, et al.

Now comes before this honorable court Archibald S. Johnston, trustee, and A. S. J. Perry, trustee, who have been served with subpœna to make answer to all such matters as shall be objected against them in the bill of complaint of Harvey Terry against the Bank of Chester, and John J. McClure, receiver, et al., and upon examination of the record it appearing to the court that there is no allegation in the said bill against the said Archibald S. Johnston, trustee, or against
91 the said A. S. J. Perry, above named, so served with subpœna, in the said cause, and that he is not even mentioned in the said bill, and that no process is prayed against them in the said bill, on motion of Buist & Buist, solicitors, it is hereby declared that the issuing of the said writ of subpœna to the said persons above named was irregular, and the services thereof ineffective and void, and that the said Archibald S. Johnston, trustee, and A. S. J. Perry, trustee, above named, is not bound to appear, answer, demur or plead, according to the exegencies of the said writ, and that they are hereby allowed to go without day, with their costs for their attendance and motion, to be taxed by the clerk of this court. It is further ordered that the clerk of this court do recall and vacate the said subpœna so issued in the said cause to the said persons above named.

It is further ordered that the plaintiff do have leave to amend his bill by adding the names of the persons hereinbefore mentioned with apt and proper words to charge them as parties defendants and in-
92 sert their names as such upon paying the costs of the amendments, and this being done, and the costs herein ordered being paid, the plaintiff have leave to obtain his subpœna for the said parties.

30th Nov., 1875.

GEO. S. BRYAN,
U. S. Judge Dist. of So. Ca.

And on the 8th day of December, A. D. 1875, came into court the complainant Harvey Terry, per se, and filed the following suggestion of death of George S. Cameron, which suggestion is in the words and tenor following:

No. 26.

Suggestion.

UNITED STATES OF AMERICA,
District of South Carolina:

In the United States cir. court. In equity.

HARVEY TERRY
vs.
BANK OF CHESTER, J. J. MCLURE, REC'V'R, et al.

On motion of complainant, leave is hereby granted to suggest the death of the defendant herein named, George S. Cameron, deceased, and that Thos. H. Croft is his executor, and that the clerk of
93 this court do note the same on his docket in this cause.

HARVEY TERRY,
Complainant.

And on the 10th day of December, A. D. 1875, came into court the complainant Harvey Terry, per se, and filed the following petition to rehear and reinstate parties, which petition is in the words and tenor following:

No. 27.

Petition.

UNITED STATES OF AMERICA,
Dist. of South Carolina:

In the U. S. circuit court. In equity.

HARVEY TERRY
vs.
BANK OF CHESTER, J. J. MCLURE, RECEIVER, et al.

Petition.

The complainant in this cause files his petition herein for review and rehearing of the proceedings had, whereby the several orders of November 30th, 1875, were passed and enrolled in this cause, and that said orders may be revoked or modified.

94 By said orders of November 30th, inst., it was directed that the service of subpœna on James S. Gibbes, Archibald S. Johnston, trustee, A. S. J. Perry, trustee, Giles G. Patterson, Robert N. Hemphill, Samuel McAliley, William McCandless, Robert S. Hope, Alexander Walker, James M. McDaniel, Susan J. Springs, J. Harvey Smith, W. T. Robison, Rudolph Brandt, Wm. Stringfellow, John S. Bratton, P. B. Gaston, Wm. A. Walker, Phineas Pierce, Robert M. Brice, J. Leslie Wright, S. Y. Tupper, Agnes C. Mitchell, Wm. E Adams, Robert Mills, James W. Kee, John Cairns, Norman M. Porter, Thomas H. Croft, as executor of George H. Cameron, deceased, be set aside as null and void, and that said persons are not bound to appear, answer, or demur or

plead according to the exigencies of said writ, and that they are hereby allowed to go without day with their costs for their attendance, and motion to be taxed by the clerk of this court, and that the clerk do recall and revoke the said subpœnas to the persons above named in said cause, &c., which orders and directions your petitioner believes to be il-
95 legal, unjust, and contrary to the rules and practice of courts of equity in causes tried in the United States courts, as herein set out and shown.

Petitioner filed his bill in this cause December 3, 1870, and filed his amended bill in said cause on the 14th day of May, 1875, setting out the names as defendants therein of all persons to him known to be stockholders of the Bank of Chester, and asking leave in his said bill to add the names of all other stockholders as defendants in said suit when discovered; and by the answers to said amended bill filed herein it has been discovered that the persons above named are stockholders or the representatives of deceased stockholders, and are proper defendants in said suit.

That at the suggestion and invitation of the defendant's counsel answering the amended bill, the following order was consented to and obtained from this court in this cause for the purpose of speeding the cause and avoiding disbursements by the acceptance of service of subpœnas as follows, to wit, "On hearing the answers of the defend-
96 ants who have answered in this cause, it is ordered, on motion of Harvey Terry, the complainant, and by consent of Mr. Rion, defendant's solicitor, that the said complainant have leave to make the stockholders, whose names have been discovered by said answers, parties to the amended bill of complaint by serving them, or their legal personal representatives, with a proper subpœna ad respondendum or by obtaining their acceptance of service upon such subpœna."

Given under my hand at Charleston, S. C., June 17th, 1875.

GEO. S. BRYAN,
U. S. Judge.

I consent to the foregoing.

JA'S H. RION,
Def't Sol.

That the prayer in the amended bill is, to wit, "To the end, therefore, that the said George S. Cameron, James Hemphill, John J. McLure, William Caldwell, S. W. Mobley, W. H. Gill, & A. Baxter Springs, stockholders, and the stockholders of the said bank, when discovered, may, if they can, show why your orator should not have the relief demanded, &c.;" and following the prayer in the bill by the order of this court, supported by rule 10 of the equity practice, petitioner submits that this court had full and complete juris liction over said parties
97 as proper defendants, and petitioner submits that an in plied admissions of that fact (that said parties are proper defendants in said suit) is given in the order complained of, liberty to make said parties defendants in said suit upon conditions.

And complainant submits the fact to be that each of said persons served with subpœna have full and complete knowledge of the fact of their being stockholders, or the personal representatives of stockholders, in said Bank of Chester, and that their counsel have full and complete knowledge of the fact that said persons were intended to be charged in the bill as stockholders, and omitted only because their names were unknown to complainant; and that the proceedings in the cause disclose them to be stockholders, or the legal representatives of stockholders,

and that the order in this cause, dated June 17th, 1875, gave the authority to subpœna and bring said defendants into court to answer said bill as stockholders of said bank. The proceedings in the cause show that the subpœna was served and that said defendants had full
98 and complete notice thereby, and of the objects of said suit, and employed counsel, not to answer the bill as the rules of equity require, but to avoid service, obstruct and delay the cause, and add to the expences of said suit. That by order of November 30th inst., complained of, said services were set aside and revoked, and the clerk was directed to tax the costs of the motions and the attendance at court in the cause against the complainant, and that he be barred of process until said costs be paid.

Petitioner submits that said orders and doings in said cause are in opposition to the rules of equity, and at variance with the statutes of the United States controlling and governing the taxable costs allowed attorneys in proceedings had in causes of equity in the courts of the United States.

The act of February 26th, 1853, 10 vol., U. S. Statutes at Large, 161, known as the fee bill, sets out in full the fees allowed attorneys in causes tried in the courts of the United States, and defines all fees and costs taxable in causes in the courts of equity of the United States to
99 the attorneys practising therein; and petitioner submits that no taxable fee is allowed by said statute to an attorney at law in a suit in a court of equity for a motion in a cause, to avoid service of process, or to avoid jurisdiction, or to avoid a general issue in a suit, or for a motion for a dismissal of a suit in equity; and petitioner submits that said act does set out and define that said fees and costs, as therein written, and no others, shall be allowed in the courts of the United States; and petitioner submits that no fee is allowed to an attorney at law by said act as is sought to be taxed and obtained under the order of November 30th inst., complained of in this cause.

Petitioner submits that under section 32 of act of 1789, 1 vol., U. S. Statutes at Large, 91, no summons, writ, declaration, return, process, or other proceeding in civil causes, shall be abated, quashed, or reversed for want of form, or exception taken except by demurrer; and petitioner submits that these parties obtaining said order complained of have mistaken their remedy; that they should have come into court and demurred to the bill for the want of form, or for regularity of proceedings.

100 Petitioner submits the rule of practise in courts of equity to be not to dismiss proper parties to a bill for want of form, or want of regularity of proceedings, or to make a multiplicity of suits, or to tax a hardship on a suitor in any cause where the proper parties are all before the court, brought in by the order of said court, by due process, regularly served with notice of the objects of said suit, and where the defendants so brought in have a full and complete remedy by demurrer, and substantial justice may be had, and a full and complete determination of the *of the* cause may be had, between the parties.

And petitioner submits that these parties, so brought into court and discharged by the said orders of November 30th, 1875, had a full and complete remedy by demurrer, and by a trial substantial justice and a complete determination of the cause between the parties could be had.

And petitioner submits that these facts cover this whole case, and should govern these cases in this cause, and therefore petitioner prays this honorable court for a review and modification or revocation

101 of said several orders and doings complained of as shall appertain to justice and equity.

Columbia, December 8th, 1875.

HARVEY TERRY,
Petitioner.

No. 28.

Affidavit.

UNITED STATES OF AMERICA,
District of South Carolina:

In equity.

HARVEY TERRY
vs.
BANK OF CHESTER ET AL.

Affidavit.

Harvey Terry, being duly sworn, deposes and says that he is the complainant in the cause above stated; that the foregoing petition in said cause is filed by himself for the purposes therein stated, and that the facts therein set forth of his own knowledge are true, and as to the things set forth upon information and belief, he believes them to be true; and petitioner herein sets out as the fact that he firmly opposed the granting of said order complained of in the foregoing petition; that before and at the hearing of said motions he applied to the court
102 to allow the clerk of the court to insert the names of said parties (discharged by the orders complained of) as defendants in his bill (as a clerical omission), and offered to agree to insert the names of said parties as defendants in his bill by leave of the court so to do, and offered to file a statement in the cause showing said parties to be stockholders and proper defendants, but said offers of satisfaction and correction of the omission complained of by said parties served were indignantly spurned by the counsel as a "jargon of nonsense, and an infliction upon the patience of the court." And said counsel openly proclaimed that no favors would be granted nor quarter shown, &c.

Petitioner referred the court to the 32nd section of the United States statute 1789, 1 vol. U. S. Statutes at Large, 91, and the rights of the parties thereunder then in court; petitioner also cited act of February 26, 1853, 10 vol. U. S. Stat. at Large, 161, as determining taxable costs of attorneys in the cause; but the court stated from the bench that he should disregard the statutes cited by counsel, and should decide the question as he (the court) thought proper; and the orders
103 complained of were granted.

HARVEY TERRY.

J. E. HAGOOD,
C. C. C. U. S., Dist. S. C.

And on the 14th day of December, A. D. 1875, came into court the defendants Giles J. Patterson, Robert N. Hemphill, Samuel McAliley, William McCandless, Robert S. Hope, Alexander Walker, James M. McDaniel, Susan J. Springs, J. Harvey Smith, W. T. Robinson, Rudolph Brandt, Wm. Strungfellow, John S. Bratton, P. B. Gaston, William A. Walker, Phineas Pierce, Robert W. Brice, J. Leslie Wright, S.

Y. Tupper, Agnes C. Mitchell, William E. Adams, Robert Mills, James W. Kee, and John Cairns, by their solicitors, McCrady & Son, and obtained the following order dismissing petition for review, which order is in the words and tenor following:

No. 29.

Order.

THE UNITED STATES OF AMERICA,
Fourth Circuit, Dist. S. C.

In equity.

HARVEY TERRY
vs.
BANK OF CHESTER.

104 On hearing the petition of Harvey Terry, the complainant, to review the orders of this court, made in this case, on the 30th November last, setting aside the service of subpœnas issued by him against Giles J. Patterson, Robert N. Hemphill, Samuel McAliley, William McCandless, Robert S. Hope, Alexander Walker, James M. McDaniel, Susan J. Springs, J. Harvey Smith, W. T. Robinson, Rudolph Brandt, Wm. Stringfellow, John S. Bratton, P. B. Gaston, William A. Walker, Phineas Pierce, Robert W. Brice, J. Leslie Wright, S. Y. Tupper, Agnes C. Mitchell, William E. Adams, Robert Mills, James W. Kee, and John Cairns, on motion of McCrady & Son it is ordered that the same be dismissed with costs, to be taxed by the clerk of this court, and that the same order be taken in the case of all parties named in said subpœnas who were not first made parties to the bill of complaint.

Dec. 14th, 1875.

HUGH L. BOND.
GEO. S. BRYAN,
U. S. Judge, Dist. of So. Ca.

105 And on the 14th day of December, A. D. 1875, came into court the complainant, Harvey Terry, per se, and filed the following exception to denial of petition, which exception is in the words and tenor following:

No. 30.

Exception.

UNITED STATES OF AMERICA,
District of South Carolina:

In the United States circuit court. In equity.

HARVEY TERRY
vs.
BANK OF CHESTER, J. J. MCLURE, RECEIVER, et al.

Exception to ruling of court denying the prayer of petition filed in this cause, December 13th, 1875. Exception filed by leave of the court.

1st. Because by denying said petition the complainant was estop'ed from all benefit of the process had in this cause, allowed by the order

of this court, to bring said persons named in said petition into court in this cause as proper parties to said cause.

106 2nd. Because by denying said petition said complainant was taxed by the hardship of the payment of costs and the release of said persons from the process of said court in said cause, as directed by the orders made in this cause, dated November 30th, 1875, while said persons named in said petition had a full and complete remedy in said cause by demurrer, if any existed (without hardship), and a full and complete determination of said cause could have been had between the parties in said suit by granting said petition.

HARVEY TERRY,
Complainant.

And on the day of , 187 , came into court the complainant, Harvey Terry, per se, and filed the following exceptions to costs taxed on dismissal of services on defendants, which exceptions are in the words and tenor following:

No. 31.

Exception.

UNITED STATES OF AMERICA,
District of South Carolina:

107 In the United States circuit court for the district of South Carolina. In equity.

HARVEY TERRY
vs.
BANK OF CHESTER, J. J. MCLURE, RECEIVER, et al.

Exceptions to taxation of costs as taxed and filed by the clerk of this court in this cause on the day of , 187 , taxed against complainant and payment thereof enforced.

1st. Because the clerk taxed the sum of twenty ($20.00) dollars, attorney's fee to defendants' solicitors, for services of said solicitors in making motions to dismiss services of copys of subpœna in this cause made upon Giles G. Patterson, Robert N. Hemphill, Samuel McAliley, and others, as defendants in this suit, said services of said copies of said subpœna on said parties and others being thereby dismissed, being twenty-nine in number.

2nd. Because the clerk of this court taxed the sum of one dollar each upon the twenty-nine copies of said subpœna served upon said twenty-nine persons, as defendants in said cause, for the alleged service of signing and sealing each copy of said subpœna so served upon said

108 persons as defendants, which said service of signing, sealing, and issuing of said copies of said subpœna never was performed by said clerk.

3rd. Because said fees or allowances (if the services were performed) are not allowed by the act of February 26th, 1853, of the United States Statutes, regulating the costs and fees of this said court.

HARVEY TERRY.

And on the 6th day of March, A. D. 1876, came into court the complainant, Harvey Terry, by his solicitor, B. I. Boone, and filed the following amendment to amended bill, which amendment is in the words and tenor following:

No. 32.

Amendment.

UNITED STATES OF AMERICA,
District of South Carolina:

In the circuit court. In equity.

HARVEY TERRY
vs.
BANK OF CHESTER, JNO. J. MCCLURE, ET AL.

Amendment to amended bill.

109 To the honorable the judges of the circuit court of the United States in and for the district of South Carolina, sitting in equity:

The complainant herein, Harvey Terry, a citizen of the State of Virginia, through his solicitor, B. I. Boone, with the permission of your honors and in behalf of himself and all others creditors of the Bank of Chester who shall come in and seek relief by and contribute to the expense of this suit, amends the amended bill herein as follows, to wit:

I. In the introduction of said bill of complaint he inserts after the words "contribute to the expenses of this suit against," on line 15 of page 1 of the amended bill filed, in addition to the names therein mentioned, the names contained in the schedule hereto annexed and marked Exhibit B.

II. In the interrogatory part of the said bill of complaint he inserts after the words "to the end, therefore, that the said," on line 23 of page 9 of the amended bill filed, in addition to the names therein mentioned, the names contained in the schedule hereto annexed and marked Exhibit B.

III. In the interrogatory part of the said bill of complaint he also
110 inserts, after the words "against the said bank, and that the said," on line 30 of page 10 of the amended bill filed, in addition to the names therein mentioned, the names contained in the schedule hereto annexed and marked Exhibit B, and also after the words "directors," on line 1 of page 11 of the amended bill filed, he inserts the words "and stockholders."

IV. In the prayer for process of the said bill of complaint he inserts after the words "to be directed to the said," on line 2 of page 12 of the amended bill filed, in addition to the names therein contained, the names contained in the schedule hereto annexed and marked Exhibit B; also after the word "directors," on line 7 of page 12, he inserts the words "and stockholders," and also after the words "to the," on line 7 of page 12, he inserts the word "other."

V. In the narrative part of said bill of complaint he inserts after the words "that John A. Bradley was a stockholder and held fifty shares (more or less) of the capital stock of said Bank of Chester, of the value of twenty-five dollars each share, at the date or within
111 twelve months of its failure," on line 16 of page 8 of the amended

bill filed, the following words, to wit: That Giles J. Patterson, J. Harvey Smith, Samuel McAliley, John Cairns, W. T. Robinson, Rudolph Brandt, as surviving partner of Bennet, Wilson and Co., Rev. Robert W. Brice, Wm. A. Walker, Robert N. Hemphill, Robert S. Hope, Mrs. C. Z. Mills, Erskine Theological Seminary (Jno. N. Young, treasurer), E. C. McClure, trustee for Mrs. P. A. Pride; Nicholas Colvin, Harriet E. Henry, Mrs. C. L. McGowan, Jno. Aiken, jr., Margaret Moffett, Dr. A. P. Wylie, Mrs. Julia Henry, S. R. Eggleston, L. C. McDonald, Mary Potts, John L. Harris, trustee for M. & E. Harris; Mrs. P. A. Pride, Phineas Pierce, A. S. J. Perry, trustee for Mrs. Martha Perry; A. S. Johnson, trustee; Elias M. Kirkpatrick, William McCandless, Elizabeth McCandless, E. C. Mowry, M. C. Mysory, Samuel P. Alexander, Rev. Henry Quigg, Emery Thayer, B. McClure, Wm. E. Adams, Carver Randall, James S. Gibbes, Norman M. Porter, A. B. Davidson, James W. Kee, Dr. M. M. Orr, S. Y. Tupper, J. Leslie Wright, John Adams, E. N. Springs, R. C. Springs, John N. McClure, sr., and Joseph J.
112 White were stockholders, and that they held each five hundred shares (more or less) of the capital stock of the said Bank of Chester, of the value of twenty-five dollars each share, at the date or within twelve months of its failure, and that Gyles J. Patterson, as administrator for J. C. Lipford, Alexander Walker, and Robert Walker, as administrator of Adam Walker, deceased; Robert N. Hemphill, adm'r for James M. Brawley, dec'd; James M. McDaniel, adm'r for Mrs. Knox, dec'd; Wm. Stringfellow, adm'r for Philip Walker, dec'd; Agnes C. Mitchell, adm'x for John Bryce, dec'd; John S. Bratton and R. L. Hope, adm'rs for Samuel Rainey, dec'd; Barbora B. Grier, as ex't'x for R. C. Grier, , adm'r for Lavina Steele, deceased; J. Leander Adams, as ex't'x of Jno. H. Adams, deceased; W. A. Clark, adm'r for Cyrus D. Melton, dec'd; , for Joseph C. Pedan, deceased; Jno. G. Steele, as ex't'r of Jno. L. Steele, deceased; B. J. Witherspoon, adm'r for Jas. H. Witherspoon, dec'd; W. B. Williams, adm'r for A. Leitewell, dec'd; Jno. B. Cornwell, adm'r for Jordan Bennette, dec'd; , as adm'r
113 for Josiah Bedan, dec'd; Wm. H. Crosby, ex't'r of Benj. F. Arthur, ex't'r Joseph H. Dogan, dec'd; James Hemphill, surviving ex't'r of Jane Hemphill, dec'd; C. C. McCoy, adm'r of N. R. Eaves, dec'd; C. C. McCoy, adm'r of Jno. Poag, dec'd; Adam Walker, as ex't'r for James Walker, dec'd; Leonidas S. White, adm'r for Jas. F. White, dec'd; T. J. Coreton, adm'r for W. S. Gilmore, dec'd; Mrs. P. B. Gaston, ex'trix of J. B. Gaston, dec'd; John L. Harris, ex't'r for Wm. H. McClure, dec'd; J. M. White, ex't'r for Wm. E. White, dec'd; R. B. Caldwell, adm'r for Cornelius Caldwell, dec'd; Wm. Murral, adm'r for Wm. Keenon, trustee, dec'd; Mrs. Caroline Goodolock, as ex'tr'x of Davis Goodolock, dec'd; Rob't Mills, adm'r for Jos. Y. Mills, dec'd; W. A. Pedon, adm'r for Jno. F. Bingham, dec'd; Jno. M. Brown and A. M. Boswell, adm'r' for Peter M. Brown, dec'd; Mrs. Ann E. Wright, ex'tr'x for Dr. Samuel Wright, dec'd; Susan J. Springs, ex'tr'x for R. A. Springs, dec'd; Dr. David Lyle, adm'r for W. H. Gill, deceased; Thos. H. Crott, executor of Geo. S. Cameron, dec'd, were stockholders and held each five hundred shares (more or less) of the capital stock of the said Bank of Chester, of
114 the value of twenty-five dollars each share, at the date or within twelve months of its failure.

B. I. BOONE,
Solicitor for Complainant.

No. 33.

Affidavit.

UNITED STATES OF AMERICA,
District of South Carolina:

Personally appeared before me Harvey Terry, complainant herein, who, being duly sworn, says the within amendments to the amended bill filed in the cause therein stated are not made for the purpose of vexation or delay, and that the nature of the proposed amendments is material, and could not with reasonable diligence have been sooner introduced into the bill.

HARVEY TERRY.

Sworn to and subscribed before me this 31st day of January, A. D. 1876.

[L. S.]

T. M. WILKES,
U. S. Commissioner for C. & D. C'ts of U. S. for So. Ca. District.

No. 34.

EXHIBIT B.

115 Gyles J. Patterson, J. Harvey Smith, Samuel McAliley, Jno Cairns, W. T. Robinson, Rudolph Brandt, as surviving partner of Bennett, Wilson & Co., Rev. Robert W. Brice, Wm. A. Walker, Robt. N. Hemphill, Robert S. Hope, Mrs. C. Z Miles, Erskine Theological Seminary (Jno. N. Young, treasurer), E. C. McClure, trustee for Mrs. P. A. Pride, Nicholas Calvin, Harriet E. Henry, Mrs. C. L. McGowan, Jno. Aiken, jr., Margarett Moffitt, Dr. A. P. Wylie, Mrs. Julia Henry, T. R. Eggleston, L. C. McDonald, Mary Potts, Jno. L. Harris, trustee for M. & E. Harris, Mrs. P. A. Pride, Phineas Pierce, A. S. J. Perry, trustee for Mrs. Martha Perry, A. S. Johnson, trustee, Elizabeth McCandless, E. C. Mowry, M. C. Wysang, Samuel P. Alexander, Rev. Henry Quigg, Emery Thayer, B. McClure, Wm. E. Adams, Carver Randall, James S. Gibbes, Norman M. Porter, A. B Davidson, James W. Kee, Dr. M. M. Orr, S. Y. Tupper, J. Leslie Wright, John Adams, E. N. Springs, R. C. Springs, Jno. N. McClure, sr., Joseph W. White, Gyles J. Patterson, administrator for J. C. Lifford, Alexander Walker and Robt. Walker,
116 administrators of Adam Walker, deceased; Robert N. Hemphill, administrator for James M. Brawley, deceased; James M. McDaniel, adm'r for Wm. Knox, dec'd; Wm. Stringfellow, adm'r for Philip Walker, dec'd; Agnes C. Mitchell, administratrix for Jno. Bryce, dec'd; Jno. S. Bratton, adm'r for Saml. Rainey, dec'd; Barbara B. Grier, executrix for R. C. Grier, dec'd; for Lavinia Steele, dec'd; J. Leander Adams, ex't'r Jno. H. Adams, dec'd; W. A. Clark, adm'r for Cyrus D. Melton, deceased; Joseph C. Pedan, dec'd; Jno. G. Steele, executor of Jno. S. Steele, deceased; B. J. Witherspoon, adm'r for J. H. Witherspoon, dec'd; W. B. Williams, adm'r A. Stillwell, dec'd; Jno. B. Cornwell, adm'r for Jordan Bennett, dec'd; for Josiah Bedan, dec'd; Wm. H. Crosly, ex't'r Benj F. Arthur, dec'd; ex't'r of Joseph H. Dogan, dec'd; James Hemphill, surviving ex't'r of Jane Hemphill, deceased; C. C. McCoy, adm'r of N. R. Eaves, dec'd; C. C. McCoy, adm'r of Jno. Poag, dec'd; Adam Walker, ex't'r James Walker, dec'd; Leonidas S. White, adm'r Jas. T. White,

dec'd; T. J. Cureton, adm'r W. T. Gilmore, dec'd; Mrs. P. B.
117 Gaston, ex't'r of J. B. Gaston, dec'd; Jno. L. Harris, ex't'r for Wm. H. McClure, dec'd; J. M. White, ex't'r for Wm. E. White, dec'd; R. B. Caldwell, adm'r Cornitius Caldwell, dec'd; Wm. Monroe, adm'r Wm. Keenan, trustee, dec'd; Mrs. Caroline Goodalock, ex't'r of Davis Goodalock, dec'd; Robert Mills, adm'r Jos. Y. Mills, dec'd; W. A. Pedan, adm'r Jno. F. Bingham, dec'd; Jno. M. Brown and A. M. Barwell, adm'rs Peter M. Brown, dec'd; Mrs. Ann E. Wright, ex't'x Dr. Samuel Wright, dec'd; Susan J. Springs, ex't'x for R. A. Springs, dec'd; Dr. David Lyles, adm'r W. H. Gill, dec'd; and Thomas H. Croft, ex't'r of Geo. S. Cameron, deceased.

And on the 6th day of March, A. D. 1876, came into court the complainant, Harvey Terry, by his solicitor, B. I. Boone, and obtained the following order granting leave to amend by adding parties defendant with apt and proper words to charge them as such; which order is in the words and tenor following:

No. 35.

Order.

UNITED STATES OF AMERICA.
District of South Carolina:

In the circuit court. In equity.

118 HARVEY TERRY
vs.
BANK OF CHESTER, JNO. J. MCCLURE, RECEIVER, et al.

On hearing the amendments to the amended bill filed in the above entitled cause, and it appearing to the court that all persons stockholders in the said Bank of Chester and all persons the legal personal representatives of deceased stockholders in the said Bank of Chester, are proper parties defendant to the said bill, and it further appearing to the court that the names contained in the schedule hereto annexed have been discovered by the proceedings already had herein, to the stockholders of the said Bank of Chester:

Now, on motion of B. I. Boone, solicitor for the complainant, it is hereby ordered that the complainant have leave to amend his amended bill of complaint, by adding thereto the names of the parties hereto appended in schedule B, as parties defendant, with apt and proper words to charge them as such.

119 And it is further ordered that the said complainant serve a fair copy of the said amendments to his amended bill on James H. Rion, defendant's solicitor, within thirty days from the date hereof.

And it is further ordered that the said complainant have leave to obtain his subpœnas for the said parties as mentioned and contained in the said schedule hereto annexed.

The question of costs heretofore ordered to be paid before amendment to the said bill being hereby reserved for adjustment by this court.

6th March, 1876.

GEO. S. BRYAN,
U. S. Judge, Dist. of So. Ca.

No. 36.

EXHIBIT B.

Giles J. Patterson, J. Harvey Smith, Samuel McAliley, Jno. Cairns, W. T. Robinson, Rudolph Brandt, as surviving partner of Bennett Wilson & Co., Rev. Robert W. Brice, Wm. A. Walker, Robt. N. Hemphill, Robert S. Hope, Mrs. C. Z. Miles, Erskine Theological Seminary (Jno. N. Young, treasurer), E. C. McClure, trustee for Mrs. P. A.
120 Pride, Nicholas Calvin, Harriett E. Henry, Mrs. C. L. McGowan, Jno. Aiken, jr., Margarett Moffitt, Dr. A. P. Wylie, Mrs. Julia Henry, T. R. Eggleston, L. C. McDonald, Mary Potts, Jno. L. Harris, trustee for M. & E. Harris, Mrs. P. A. Pride, Phineas Pierce, A. S. J. Perry, trustee for Mrs. Martha Perry, A. S. Johnson, trustee, Elizabeth McCandless, E. C. Mowry, M. C. Wysang, Samuel P. Alexander, Rev. Henry Quigg, Emery Thayer, B. McClure, Wm. E. Adams, Carver Randall, James S. Gibbes, Norman M. Porter, A. B. Davidson, James W. Kee, Dr. M. M. Orr, S. Y. Tupper, J. Leslie Wright, John Adams, E. N. Springs, R. C. Springs, Jno. N. McClure, sr., Joseph W. White, Gyles J. Patterson, administrator for J. C. Lifford, Alexander Walker, and Robt. Walker, administrators of Adam Walker, deceased, Robert N. Hemphill, administrator for James M. Brawley, deceased, James M. McDaniel, adm'r for Wm. Knox, dec'd, Wm. Stringfellow, adm'r for Phillip Walker, dec'd, Agnes C. Mitchell, adm'r for Jno. Bryce, dec'd, Jno. S. Bratton, adm'r for Sam'l Rainey, dec'd, Barbara B. Grier, executrix for R. C. Grier, dec'd, for Lavinia Steele, dec'd, J. Leander Adams,
121 ex't'r Jno. H. Adams, dec'd, W. A. Clark, adm'r for Cyrus D. Melton, deceased, Joseph C. Pedan, dec'd, Jno. G. Steele, executor of Jno. S. Steele, deceased, B. J. Witherspoon, adm'r for J. H. Witherspoon, dec'd, W. B. Williams, adm'r A. Stillwell, deceased, Jno. B. Cornwell, adm'r for Jordan Bennett, dec'd, for Josiah Bedan, dec'd, Wm. H. Crosly, ex't'r Benj. F. Arthur, dec'd, ex't'r of Joseph H. Dogan, dec'd, James Hemphill, surviving ex't'r of Jane Hemphill, deceased, C. C. McCoy, adm'r of N. R. Eaves, dec'd, C. C. McCoy, adm'r of Jno. Poag, dec'd, Adam Walker, ex't'r James Walker, dec'd, Leonidas S. White, adm'r Jas. T. White, dec'd, T. J. Cureton, adm'r W. T. Gilmore, dec'd, Mrs. P. B. Gaston, ex't'r of J. B. Gaston, dec'd, Jno. L. Harris, ex't'r for Wm. H. McClure, dec'd, J. M. White, ex't'r for Wm. E. White, dec'd, R. B. Caldwell, adm'r Cornitius Caldwell, dec'd, Wm. Monroe, adm'r Wm. Keenan, trustee, dec'd, Mrs. Caroline Goodalock, ex't'x of Davis Goodalock, dec'd, Robert Mills, adm'r Jos. Y. Mills, dec'd, W. A. Pedan, adm'r Jno. F. Bingham, dec'd, Jno. M. Brown and A. M. Barwell, adm'rs Peter M. Brown, dec'd, Mrs. Ann C. Wright, ex't'x Dr. Samuel Wright, dec'd, Susan J. Springs, ex't'x for R. A. Springs, dec'd, Dr. David Lyles, adm'r W. H. Gill, dec'd, and Thomas H. Croft,
122 ex't'r of Geo. S. Cameron, deceased.

And on the 28th day of April, A. D. 1876, came into court the defendants John B. Cornwell, administrator of Jordan Bennett, C. C. McCoy, administrator of N. R. Eaves, and C. C. McCoy, administrator of John Poag, by their solicitor, S. P. Hamilton, and filed the following notice; which notice is in the words and tenor following:

No. 37.

Notice.

In the circuit court of the U. S. In equity.

U. S. OF AMERICA,
So. Ca. Dist.:

HARVEY TERRY
vs.
THE BANK OF CHESTER, JOHN J. MCLURE, RECEIVER, et al.

To James E. Hagood, clerk of the circuit court of the United States for So. Ca. district:

Please take notice that in the above-entitled case I appear as solicitor for the defendants therein named, to wit: John B. Cornwell, administrator of Jordan Bennett, C. C. McCoy, administrator of
123 N. R. Eaves, C. C. McCoy, administrator of John Poag.

S. P. HAMILTON,
Def'd'ts Solicitor.

To James E. Hagood.

And on the 5th day of June, A. D. 1876, came into court the complainant, Harvey Terry, and filed the following affidavit; which affidavit is in the words and tenor following:

No. 38.

Affidavit.

U. S. OF AMERICA,
Dist. of S. Carolina:

In the U. S. circuit court. In equity.

HARVEY TERRY
vs.
BANK OF CHESTER & J. J. MCLURE, REC'V'R, et al.

Harvey Terry being duly sworn, says that he owns real estate and personal property within the State of South Carolina in value to more than five thousand dollars, and the same is free of all encumbrance.

HARVEY TERRY.

124 Subscribed & sworn to before me this fifth day of June, 1876.

J. E. HAGOOD,
C. C. C. U. S. Dist. S. C.

And on the 5th day of June, A. D. 1876, came into court the defendants Giles J. Patterson, J. Harvey Smith, Samuel McAliley, John Cairns, W. T. Robinson, Rudolph Brandt, Rev. Robert W. Brice, William A. Walker, Robert N. Hemphill, Robert S. Hope, Phineas Pierce, William McCandless, Elizabeth McCandless, William E. Adams, James W. Kee, S. Y. Tupper, J. Leslie Wright, Giles J. Patterson, adminis-

trator of J. C. Lifford, deceased, Alexander Walker & Robert Walker, administrators of Adam Walker, Robert N. Hemphill, administrator of James M. Brawley, James McDaniel, administrator of William Knox, deceased, William Stringfellow, administrator of Phillip Walker, deceased, Agnes C. Mitchell, administratrix of John Brice, deceased, John S. Bratton and R. S. Hope, administrators of Samuel Rainey, deceased, J. Leander Adams, executor of John H. Adams, deceased, Robert Mills, administrator of James Y. Mills, and Susan J. Springs,
125 executrix of R. A. Springs, by their solicitors, McCrady and Son, and obtained the following order for leave for further time to answer, and order of reference as to costs; which order is in the words and tenor following:

No. 39.

Order.

THE UNITED STATES OF AMERICA,
Fourth Circuit, Dist. of So. Ca.:

In the circuit court. In equity.

HARVEY TERRY
vs.
BANK OF CHESTER & J. J. McLURE, receiver, et al.

On motion of McCrady & Son, solicitors for Giles J. Patterson, J. Harvey Smith, Samuel McAliley, John Cairns, W. T. Robinson, Rudolph Brandt, Rev. Robert W. Brice, William A. Walker, Robert N. Hemphill, Robert S. Hope, Phineas Pierce, William McCandless, Elizabeth McCandless, William E. Adams, James W. Kee, S. Y. Tupper, J. Leslie Wright, Giles J. Patterson, administrator of J. C. Lifford, deceased, Alexander Walker & Robert Walker, administrators of Adam
126 Walker, Robert N. Hemphill, sued as administrator of James M. Brawley, James McDaniel, administrator of William Knox, deceased; William Stringfellow, administrator of Philip Walker, deceased; Agnes C. Mitchell, administratrix of John Bryce, deceased; John S. Bratton and R. S. Hope, administrators of Samuel Rainey, deceased; J. Leander Adams, executor of John H. Adams, deceased; Robert Mills, administrator of James Y. Mills, and Susan J. Springs, executrix of R. A. Springs, defendants in this cause, it is ordered that the said defendant do have leave to plead, answer or demur to the amended bill herein at any time before the rules day in August next. And it is further ordered that it be referred to J. E. Hagood, special master, to inquire and report to what amount the plaintiff shall be required to give security for costs of the defendants brought into this suit upon the amended bill filed herein on the rules day in March last.

5th June, 1876.

GEO. S. BRYAN,
U. S. Judge, Dist. of So. Ca.

And on the 5th day of June, A. D. 1876, came into court the
127 defendants John B. Cornwell, administrator of Jordan Bennett, deceased, and C. C. McCoy, as administrator of John Poag and N. R. Eaves, deceased, by their solicitor, S. P. Hamilton, and obtained

the following order for further time to answer, and order of reference as to costs to special master, which order is in the words and tenor following:

No. 40.

Order.

UNITED STATES OF AMERICA,
South Carolina District:

In the circuit court.

HARVEY TERRY
vs.
JOHN J. McLURE, RECEIVER OF THE BANK of Chester, et al.

It appearing to the court that S. P. Hamilton, esq, has duly entered his appearance with the clerk of this court before the last rules day, as solicitor for the defendants John B. Cornwell, as administrator of Jordan Bennett, deceased, and C. C. Macoy, as administrator of John Poag, deceased, and of N. R. Eaves, deceased; and it further appearing that
128 the Supreme Court of the United States has rendered recently a decision in the case of Harvey Terry vs. The Exchange Bank, involving the points litigated in the present cause, and that counsel for defendants above named has not had time to procure a copy of said decision of the Supreme Court of the United States, and that it is necessary for said defendants to have a view of said decision whereon to found and frame their answers, it is, on motion of S. P. Hamilton, solicitor for said defendants, ordered that said defendant' have further time to file their answers herein until rules day in August next.

And it is further ordered that it be referred to James E. Hagood, esq'r., special master, to inquire and report to what amount the plaintiff shall be required to give security for the costs of the defendants brought into this cause by amended bill filed on rules day in March last.

5th June, 1876.

GEO. S. BRYAN,
U. S. Judge, Dist. of So. Ca.

And on the 5th day of June, A. D. 1876, came into court the
129 defendant Thomas H. Croft, executor of George S. Cameron, deceased, by his solicitors, Simons & Simons, and obtained the following order for leave to answer, and order as to costs, which order is in the words and tenor following:

No. 41.

Order.

THE UNITED STATES OF AMERICA,
Fourth Circuit, Dist. So. Ca.:

In the circuit court. In equity.

HARVEY TERRY
vs.
BANK OF CHESTER & J. J. McLURE, RECEIVER, et al.

On motion of Simons and Simons, solicitors for Thos. H. Croft, exec-

utor of the will of Geo. S. Cameron, dec'd, it is ordered that the said defendant do have leave to plead, answer, or demur to the amended bill herein at any time before the rules day in August next.

And it is further ordered that in the mean time it be referred to J. E. Hagood, esq., special master, to inquire and report to what
130 amount the plaintiff shall be required to give security for the costs of the defendant brought into the cause by the amended bill filed in rules day in March last.

5th June, 1876.

GEO. S. BRYAN,
U. S. Judge Dist. of So. Ca.

And on the 5th day of June, A. D. 1876, came into court the defendant James S. Gibbes, by his solicitors, Simonton and Barker, and obtained the following order for further time to answer, and order of reference as to security for costs, which order is in the words and tenor following:

No. 42.

Order.

THE UNITED STATES OF AMERICA,
District of South Carolina, Fourth Circuit:

HARVEY TERRY
vs.
THE BANK OF CHESTER, JNO. J. MCLURE, RECEIVER, et al.

On motion of Simonton & Barker, it is ordered that the defendant James S. Gibbes have leave to plead, answer, or demur to the
131 amended bill in this case filed on the sixth day of March, 1876, on or before the rules day in August next.

It is further ordered that it be referred to J. E. Hagood, esq., as special master, to enquire as to what amount the complainant in this case should give security for costs in these proceedings.

5th June, 1876.

GEO. S. BRYAN,
U. S. Judge Dist. of So. Ca.

And on the 5th day of June, A. D. 1876, came into court the defendants A. S. Johnson, trustee, and A. S. J. Perry, trustee of Martha Perry, by their solicitors, Buist and Buist, and obtained the following order for further time to answer, and order of reference as to security for costs, which order is in the words and tenor following:

No. 43.

Order.

THE UNITED STATES OF AMERICA,
Fourth Circuit, Dist. of So. Ca.:

In the circuit court. In equity.

132 HARVEY TERRY
vs.
BANK OF CHESTER & J. J. MCLURE, RECEIVER, et al.

On motion of Buist & Buist, solicitors for A. S. Johnston, trustee

and A. S. J. Perry, trustee of Martha Perry, it is ordered that the said defendants do have leave to plead, answer or demur to the amended bill herein at any time before rules day in August next.

It is further ordered th t it be referred to J. E. Hagood, special master to ascertain and report what amount of security for costs shall be given by the plaintiff on the amended bill filed by him on March last.

5th June, 1876.

GEO. S. BRYAN,
U. S. Judge, Dist. of So. Ca.

And on the 17th day of July, A. D. 1876, came into court J. E. Hagood, special master, and filed the following report as to security for costs, which report is in the words and tenor following:

No. 44.

Report.

133 UNITED STATES OF AMERICA,
District of South Carolina, Fourth Circuit:

In circuit court. In equity.

HARVEY TERRY, COMPLAINANT,
vs.
THE BANK OF CHESTER ET AL., DEFENDANTS.

To the honorable the judges of the said court:

On the 6th of June, 1876, the solicitors, Messrs. McCrady & Son, S. P. Hamilton, Buist & Buist, Simons & Simons, Simonton & Barker, who represent about forty of the defendants in this cause, came into court and obtained five different orders, referring this case to me as special master, to enquire into and report to what amount the plaintiff shall be required to give security for costs of the defendants brought into this suit upon the amended bill filed herein on the rules day in March last.

In obedience to the foregoing orders, I beg leave most respect-
134 fully to report that I have called three references, and have given notice to the solici ors in the cause of the time and place of holding the same. The first reference was called on the 15th of June, and, at the request of the complainant's solicitor, was continued until the 22d of June; the complainants' solicitor not being in attendance on the reference on the said 22nd day of June, the reference was adjourned until the 17th of July, this being the day appointed for holding the reference; the complainant's solicitors not being present, I proceeded with the reference.

The complainant in this cause filed at rules day in March last his amended bill, making about ninety parties defendants, none of whom had been made parties defendants by the original bill filed in this cause; that subpœnas ad respondendum was issued o it of this court for all of the defendants named in the amended bill; about forty of these defendants have come in and filed their appearances, and are represented by their solicitors; some have just been served with subpœnas; the marshal has o her subpœnas in his office for service, and some of them may not be found.

135 Many of the defendants are brought into court as stockholders themselves; many as executors, administrators, and trustees of

deceased persons' estates; that many of the defendants are bill holders o t e bank of Chester, while others claim to be creditors of the bank; that the defendants are represented by various attorneys, and will be compelled to file seperate and distinct answers as a proper means of defence, and each defendant should be entitled to his tax costs in the case.

In the case of McDonald & wife vs. Williams & Durant, administrators, Rice's Equity Reports, page 296, it was held that where independent exceptions are filed at the instance of different parties, the solicitors would be entitled to tax his cost on each as for his attendance on the reference. So, too, if the creditors are represented by different solicitors, each would be entitled to his cost if he performed the services indicated by the act, as each creditor has the right to be heard by counsel of his own selection.

I am of opinion that this case is similar to the one referred to,
136 and recommend that the complainant be required to enter into security for costs for the defendants brought into this suit in the sumof fifteen hundred dollars, which is a reasonable allowance for all the defendants brought into this suit by the amended bill.

All of which is respectfully submitted.

July 17th, 1876.

J. E. HAGOOD,
Special Master.

And on the 1st day of August, A. D. 1876, came into court the solicitors for defendants and obtained the following order confirming report of special master as to security for costs, which order is in the words and tenor following:

No. 45.

Order.

THE UNITED STATES OF AMERICA,
District of South Carolina, Fourth Circuit:

In equity.

HARVEY TERRY
vs.
J. J. MCLURE ET AL., BANK OF CHESTER.

Order confirming report of clerk as to security for costs & ch.

137 On hearing the report of James E. Hagood, esquire, clerk, as to the amount for which the complainant in this case should give security for costs, and the same having been considered and approved by this court, notice having been given to the complainant and his counsel of motion for this order, it is ordered that the said report be and the same is hereby approved, and the complainant in this case is hereby ordered and required to give good and sufficient security for the costs in this case as reported by the said clerk, in the sum of fifteen hundred dollars ($1,500), which security must be approved by the said clerk before acceptance by him, and must be given on or before the rules day in September next, and it is ordered that in case the said complainant shall fail to put in the said security to the approval and satisfaction of the said clerk on or before the rules day in September next, that the bill and amended bills in this case do and are hereby ordered to stand dis-

missed, and that the clerk do thereupon upon said rules day enter an order dismissing said bill and amended bills without the further
138 order or direction of this court.

And it is further ordered that the time hereto given the defendants within which to plead, answer, or demur to the said bill and amended bill be and the same is hereby extended to the rules day which shall occur after twenty days from the giving of such security as hereinbefore ordered.

1st August, 1876.

GEO. S. BRYAN,
U. S. Judge Dist. of So. Ca.

And on the 4th day of September, A. D. 1876, came into court the complainant, Harvey Terry, and filed the following security for costs, which security is in the words and tenor following:

No. 46.

Security for costs.

I hereby agree to stand security for costs for the plaintiff in this case in the sum of fifteen hundred dollars and consent that if the defendant fail to recover the costs of the plaintiff that they may have execution against me for the same.

Given under my hand & seal this the 4th day of September, 1876.

REUBEN TOMLINSON.

139 And on the 2nd day of August, A. D. 1876, came into court the complainant, Harvey Terry, per se, and filed the following exceptions to report of clerk requiring fifteen hundred dollars security for costs; which exceptions are in the words and tenor following:

No. 47.

Exceptions.

UNITED STATES OF AMERICA,
District of South Carolina:

In the United States circuit court. In equity.

HARVEY TERRY
vs.
BANK OF CHESTER, JOHN J. MCLURE, receiver, et al.

Harvey Terry, the complainant in the above stated cause, hereby excepts to the report of J. E. Hagood, esq., clerk of said court, filed July 18th, 1876, in this cause, fixing the amount of security to be for costs by the complainant at fifteen hundred ($1,500) dollars, and also excepts to the motion of defendants' solicitors to confirm said report on Tues-
140 day, August 1st, 1876, because the co-complainants in said cause have not been made parties in the order and report directing said security to be given; and because due notice of the holding of said reference was not given complainant and his co-complainants in said cause, nor due notice of the motion to confirm the report of the clerk of the

court in said cause was not given or served on either the complainant or co-complainants, and excepts to said report and the confirmation of it, because the complainant has real estate property within the district of South Carolina to the value of more than of the amount of the security required in said cause, and the proof of the ownership of said property by the complainant is filed in the cause, and the complainant has become a resident of said district.

HARVEY TERRY,
Complainant per se.

And on the 16th day of August, A. D. 1876, came into court the defendant James Hemphill, by his solicitor, James H. Rion, and filed the following answer, which answer is in the words and tenor following:

No. 48.

Answer.

141 UNITED STATES OF AMERICA,
South Carolina District:

In the circuit court, fourth circuit. In equity.

The several answer of James Hemphill, one of the defendants to the amended bill of complaint of Harvey Terry, complainant, against this defendant and others.

This defendant, now and at all times hereafter saving and reserving to himself all benefit and advantage of exception which can or may be had or taken to the many errors, uncertainties, and other imperfections in the said complainant's said amended amended bill of complaint contained, or answer thereunto, or unto so much and such parts thereof as this defendant is advised is or are material for him to make answer unto, this defendant, answering, says:

That he admits the Bank of Chester was a body corporate created by the laws of the State of South Carolina, and organized in pursuance of the act of the general assembly thereof, passed on the 14th day of December, A. D. 1852, entitled "An act to recharter the Planters
142 and Mechanics' Bank of South Carolina, the Union Bank of South Carolina, the Commercial Bank of Columbia, South Carolina, and to incorporate the Exchange Bank of Columbia, the Farmers' and Exchange Bank, and the People's Bank of Charleston, the Bank of Newberry, the Bank of Chester, the Bank of Sumterville, the Planters' Bank of Fairfield, and the Western Bank of South Carolina, at Anderson"; and that the said Bank of Chester was incorporated for a period of twenty one years from the first day of January, eighteen hundred and fifty three.

That this defendant admits that the said Bank of Chester did act upon the liberties and franchises in its said charter set forth, and did transact business as a bank, as stated in the complainant's said amended amended bill.

That this defendant denies all the other allegations in the said complainant's said amended amended bill of complaint contained, as to the rights and liberties of the said bank, as conferred and imposed by
143 the said act, except that by the said act it was declared that the said Bank of Chester "shall have and possess the same rights and privileges, and be subject to the same duties, liabilities, obligations,

regulations, and restrictions herein provided for the said Planters and Mechanics' Bank, and Union Bank, and Commercial Bank."

And this defendant alleges that the fourth section of the charter of the said Planters and Mechanics' Bank was not made a part of the charter of the Bank of Chester.

And he further denys that in and by the aforesaid act of the general assembly it is provided that in case of failure of the Bank of Chester, each stockholder, copartnership, or body politic having a share or shares in said bank at the time of such failure, or who shall have been interested therein at any time within twelve months previous to such failure, shall be liable and held bound individually for any sum not exceeding twice the amount of his, her, or their share or shares. And he further denies that there is any provision in the charter of the said Bank of Chester that in the event of the failure of said bank any stockholder
144 shall be liable in any sum whatever for the redemption of the bills of the said bank, or for any of the debts of the said bank.

That he admits at an earlier date than the first day of March, eighteen hundred and sixty-five, the said bank of Chester had failed, being then indebted to an amount far exceeding its assets.

That this defendant denies that owing to the refusal and failure of the said bank, the stockholders, copartnerships, and bodies politic having a share or shares therein at the time of such failure, or who were interested therein at any time within twelve months previous to such failure, became liable for the debts of the said bank in sums not exceeding twice the amount of his, her, or their shares.

That this defendant admits that the act of the general assembly of the State aforesaid, entitled "An act to enable the banks of this State to resume business or to place them in liquidation," approved March 13, 1869, provides "that all the banks incorporated by the authority
145 of this State, and which have by said authority issued bills of credit known as bank bills, and have failed to comply with said corporate privileges by refusing to pay their bills of credit, and are now thus failing to comply with the provisions of said act of incorporation in this particular, and shall so continue to violate said act until the first day of December, A. D. 1869, shall forfeit all corporate rights and privileges, and are forbidden to transact any business as banking institutions."

That this defendant admits that by the second section of the last named act the judge of the circuit in which any bank failing to comply with the requirements of the first section of the same, is situated, is empowered upon being notified of such failure, to appoint a suitable person as receiver of the property of such bank, who should take charge thereof after giving such a bond as is required by said act.

That this defendant admits that at various times previous to the said first day of December, A. D. 1869, the said bank of Chester refused to pay its bank bills, and failed to redeem the same and continued
146 so to fail and refuse until the first day of December, A. D. 1869.

That this defendant admits that subsequently, on or about the thirty-first day of December, A. D. 1869, in pursuance of the provisions of said last named act, upon a notification made by Hon. J. L. Neagle, comptroller general of the State of South Carolina, that said bank of Chester had failed to comply with the requirements of said act, John J. McLure, was by an order made by the honorable William M. Thomas, circuit judge of the sixth circuit of said State, duly appointed receiver of the property and assets of the said bank; that he has duly entered

court in said cause was not given or served on either the complainant or co-complainants, and excepts to said report and the confirmation of it, because the complainant has real estate property within the district of South Carolina to the value of more than of the amount of the security required in said cause, and the proof of the ownership of said property by the complainant is filed in the cause, and the complainant has become a resident of said district.

HARVEY TERRY,
Complainant per se.

And on the 16th day of August, A. D. 1876, came into court the defendant James Hemphill, by his solicitor, James H. Rion, and filed the following answer, which answer is in the words and tenor following:

No. 48.

Answer.

141 UNITED STATES OF AMERICA,
South Carolina District:

In the circuit court, fourth circuit. In equity.

The several answer of James Hemphill, one of the defendants to the amended bill of complaint of Harvey Terry, complainant, against this defendant and others.

This defendant, now and at all times hereafter saving and reserving to himself all benefit and advantage of exception which can or may be had or taken to the many errors, uncertainties, and other imperfections in the said complainant's said amended amended bill of complaint contained, for answer thereunto, or unto so much and such parts thereof as this defendant is advised is or are material for him to make answer unto, this defendant, answering, says:

That he admits the Bank of Chester was a body corporate created by the laws of the State of South Carolina, and organized in pursuance of the act of the general assembly thereof, passed on the 14th day of December, A. D. 1852, entitled "An act to recharter the Planters
142 and Mechanics' Bank of South Carolina, the Union Bank of South Carolina, the Commercial Bank of Columbia, South Carolina, and to incorporate the Exchange Bank of Columbia, the Farmers' and Exchange Bank, and the People's Bank of Charleston, the Bank of Newberry, the Bank of Chester, the Bank of Sumterville, the Planters' Bank of Fairfield, and the Western Bank of South Carolina, at Anderson"; and that the said Bank of Chester was incorporated for a period of twenty-one years from the first day of January, eighteen hundred and fifty three.

That this defendant admits that the said Bank of Chester did act upon the liberties and franchises in its said charter set forth, and did transact business as a bank, as stated in the complainant's said amended amended bill.

That this defendant denies all the other allegations in the said complainant's said amended amended bill of complaint contained, as to the rights and liberties of the said bank, as conferred and imposed by
143 the said act, except that by the said act it was declared that the said Bank of Chester "shall have and possess the same rights and privileges, and be subject to the same duties, liabilities, obligations,

regulations, and restrictions herein provided for the said Planters and Mechanics' Bank, and Union Bank, and Commercial Bank."

And this defendant alleges that the fourth section of the charter of the said Planters and Mechanics' Bank was not made a part of the charter of the Bank of Chester.

And he further denys that in and by the aforesaid act of the general assembly it is provided that in case of failure of the Bank of Chester, each stockholder, copartnership, or body politic having a share or shares in said bank at the time of such failure, or who shall have been interested therein at any time within twelve months previous to such failure, shall be liable and held bound individually for any sum not exceeding twice the amount of his, her, or their share or shares. And he further denies that there is any provision in the charter of the said Bank of Chester that in the event of the failure of said bank any stockholder
144 shall be liable in any sum whatever for the redemption of the bills of the said bank, or for any of the debts of the said bank.

That he admits at an earlier date than the first day of March, eighteen hundred and sixty-five, the said bank of Chester had failed, being then indebted to an amount far exceeding its assets.

That this defendant denies that owing to the refusal and failure of the said bank, the stockholders, copartnerships, and bodies politic having a share or shares therein at the time of such failure, or who were interested therein at any time within twelve months previous to such failure, became liable for the debts of the said bank in sums not exceeding twice the amount of his, her, or their shares.

That this defendant admits that the act of the general assembly of the State aforesaid, entitled "An act to enable the banks of this State to resume business or to place them in liquidation," approved March 13, 1869, provides "that all the banks incorporated by the authority
145 of this State, and which have by said authority issued bills of credit known as bank bills, and have failed to comply with said corporate privileges by refusing to pay their bills of credit, and are now thus failing to comply with the provisions of said act of incorporation in this particular, and shall so continue to violate said act until the first day of December, A. D. 1869, shall forfeit all corporate rights and privileges, and are forbidden to transact any business as banking institutions."

That this defendant admits that by the second section of the last named act the judge of the circuit in which any bank failing to comply with the requirements of the first section of the same, is situated, is empowered upon being notified of such failure, to appoint a suitable person as receiver of the property of such bank, who should take charge thereof after giving such a bond as is required by said act.

That this defendant admits that at various times previous to the said first day of December, A. D. 1869, the said bank of Chester refused to pay its bank bills, and failed to redeem the same and continued
146 so to fail and refuse until the first day of December, A. D. 1869.

That this defendant admits that subsequently, on or about the thirty-first day of December, A. D. 1869, in pursuance of the provisions of said last named act, upon a notification made by Hon. J. L. Neagle, comptroller general of the State of South Carolina, that said bank of Chester had failed to comply with the requirements of said act, John J. McLure, was by an order made by the honorable William M. Thomas, circuit judge of the sixth circuit of said State, duly appointed receiver of the property and assets of the said bank; that he has duly entered

into bond in conformity to said act, and the said order, and has taken possession of the property and assets of the said bank.

That this defendant admits that on the 8th day of January, 1870, it was ordered by said judge William M. Thomas that all creditors and bill holders of the said bank be enjoined from proceeding at law against the said bank.

147 This defendant, further answering, says that he knows not nor has he been informed save by the said complainants said ameneded amended bill, and he cannot set forth as to his belief or otherwise, whether of the bills of credit of the said bank, or promissory notes payable to bearer on demand, and constituting a portion of the circulating medium, intended to be furnished by the said bank, in accordance with its charter, a large amount is the property of the complainant; or whether the same came to the complainant in the regular course of trade, or for valuable consideration; or whether Exhibit A is a true schedule of the dates and amounts of the bank bills alleged to be held by the complainant.

That this defendant denies that the complainant is entitled to have payment of his alleged debt out of the property of all presons who were stockholders of the said Bank of Chester at the time of its failure, or were interested therein at any time within twelve months previous to said failure.

148 Further answering, this defendant says, that he cannot say whether he was a stockholder of the said Bank of Chester at the time of the failure of the said bank or within twelve months previous to said failure, as it has not been legally ascertained, nor does it appear from the said complainant's amended amended bill, at what time the said bank failed; but this defendant admits that he held three hundred shares of the capital stock of the Bank of Chester, of the value of twenty five dollars each share, from the twelfth day of April, eighteen hundred and fifty five, to the eighth day of July, eighteen hundred and seventy-six; but he denies that he assumed the responsibility of a joint maker of the bank notes of said bank, or in any way became a co-obligor to pay the debts and bank notes of said bank outstanding to the bearer thereof.

And as to the prayer of said amended amended bill, "that an account may be taken by and under the direction of this honorable court

149 of the claims of your orator, and of all other debts due by the said bank and remaining unpaid; and that all and singular the bill-holders and creditors of the said bank may be summoned and notified by the order of this honorable court to come forward according to the course and practice of this court to establish the claims due by the said bank and stockholders to them, the bill-holders and other creditors of the said bank, who may come in and contribute to the expenses of this suit," this defendant submits that this court has no jurisdiction of the cause in this behalf, inasmuch as the court of common pleas for Chester County, in the aforesaid State of South Carolina, has heretofore, under the proceedings mentioned in the complainant's amended-amended bill, taken an account of the claims of Harvey Terry, and of all other debts due by the said Bank of Chester; and that all the bill-holders and creditors of the said bank have been summoned and

150 notified by the order of said State court to establish the claims and demands due to them; that the complainant and other creditors have established such claims and demands, and have already received a dividend thereon, to wit, thirty-six and one-half per centum.

This defendant, further answering, says for defence to the alleged

cause of action set forth in the said complainant's said amended amended bill:

1. That the complainants did not bring the said action against this defendant, as stockholder, within four years next after the failure of the said Bank of Chester.

2. That the cause of action stated in the said amended-amended bill did not accrue within four years before the commencement of this action, as against this defendant as stockholder.

3. That before the commencement of this action against this defendant as stockholder, he had paid and redeemed seven thousand and five hundred & thirty dollars of the bills of the Bank of Chester, which
151 bills he has held ever since he paid and redeemed the same, and still now holds.

4. That before the commencement of this action against this defendant, as stockholder, he has paid and redeemed seven thousand and five hundred & thirty dollars of the bills of the said Bank of Chester, which said bills he now holds and has held ever since he paid and redeemed the same; and as to said bills and by virtue of his ownership thereof, he claims the same rights as though he was joined and made party plaintiff in the said amended amended bill.

5. That before the commencement of this action against this defendant, as stockholder, he had paid and redeemed seven thousand and five hundred & thirty dollars of the bills of the said Bank of Chester, which said bills he now holds and has held ever since he paid and redeemed the same; and he claims that any judgment he may obtain by reason of the premises, should he obtain any, should be set off against
152 any that may be obtained against him by reason of the *the* premises, should any such judgment be obtained.

6. That as is alleged in the complainant's amended amended bill, on the 13th day of March, 1869, an act was passed by the general assembly of the State of South Carolina, by which it was provided that unless the said Bank of Chester should on or before the first day of December, 1869, commence paying its bills of credit, agree to redeem its bills, and in other respects comply with the provisions of the act incorporating the said bank, it, the said bank, should forfeit all corporate rights and privileges; that by said act, all acts and parts of acts inconsistent therewith were repealed. That the said Bank of Chester did fail and has failed to pay its bills of credit, redeem its bills, and in any respect to comply with the provisions of the act incorporating the bank before or on the said first day of December, A. D. 1869, and ever since, as set forth in complainant's amended amended bill; that the said act
153 of the general assembly in no manner or words provided for a continuation of the liability of stockholders of the said bank after the forfeiture of its corporate rights and privileges.

7. That long prior to the filing of the complainant's amended amended bill, to wit, on the first day of January, A. D. 1874, the charter of the said Bank of Chester expired by its own limitation, by reason of which and the non existence of any act of the general assembly of the State of South Carolina, providing for a continuation of the liability of the stockholders after such expiration of charter, there no longer exists any liability on the part of this defendant for any default of the said bank, or for any of the debts or outstanding bills of the said bank, provided any such liability ever did exist.

And this defendant hereby reserves to himself the right, whenever it shall be legally ascertained when the said Bank of Chester failed, to interpose a plea of the non-joinder of all who were stockholders

154 at the time of said failure or at any time within twelve months previous thereto, and who have not been made parties defendants to this amended amended bill.

And this defendant denies, and so forth, without this that there is any other matter, cause, or thing in the said complainant's said amended amended bill of complaint contained material or necessary for this defendant to make answer unto, and not herein and hereby well and sufficiently answered, confessed, traversed, and avoided or denied, is true to the knowledge or belief of this defendant; all which matters and things this defendant is ready and willing to aver, maintain and prove as this honorable court shall direct, and he humbly prays to be hence dismissed with his reasonable costs and charges in this behalf most wrongfully sustained.

JAS. H. RION,
Defendant's Solicitor.

No. 49.

Affidavit.

155 STATE OF SOUTH CAROLINA.
County of Chester:

James Hemphill, the defendant above named, being duly sworn, says that the statements contained in the foregoing answer are true to his own knowledge, except the matters therein stated on information and belief, and as to those matters he believes it to be true.

JAMES HEMPHILL.

Sworn to before me this 8th day of July, A. D. 1876.
[SEAL.] B. M. SPRATT,
Notary Public.

The following named persons filed similar answers as the one above, to wit: John A. Bradley, T. J. Cureton, adm'r, C. Goodelock, ex'r, B. J. Witherspoon, adm'r, Jno. M. White, ex'r, B. B. Grier, ex'r, James Hemphill, ex'r, W. A. Clark, adm'r, Jno. L. Harris, ex'r, John L. Harris, trust., David Lyles, adm'r, Jno. G. Steele, ex'r, L. S. White, adm'r, Wm. Munro, adm'r, Erskine College, S. W. Mobley, A. B. Springs, B. McLure, A. P. Wiley, Wm. Caldwell, Jno. J. McLure, Nicholas Colvin, Margaret Moffett.

156 And on the 4th day of September, A. D. 1876, came into court the complainant Harvey Terry, per se, and filed the following replication to answer of James Hemphill, defendant, which replication is in words and tenor following:

No. 50.

Replication.

UNITED STATES OF AMERICA,
District of South Carolina, Fourth Circuit:

HARVEY TERRY
vs.
THE BANK OF CHESTER ET AL. } In the circuit court. In equity.

The replication of Harvey Terry, complainant, to answer of James Hemphill, one of the defendants in said suit.

This repliant saving and reserving to himself now and at all times hereafter, all and all manner of benefit and advantage of exception which may

be had or taken to the manifold insufficiencies of the said plea of answer and for replication thereunto, saith, that he will aver, maintain
157 and prove his said bill to be true, certain and sufficient in the law to be answered unto; and that the answer of James Hemphill, one of the defendants is uncertain, untrue, and insufficient to be replied to by this repliant.

That the suit of the State of South Carolina against the Bank of Chester, for a settlement of the affairs of the bank and the payment of its debts, as referred to in said answer, was a suit against the corporation only, and did not include the stockholders, the defendants in this suit; that said suit against said corporation has been fully prosecuted and ended, and that said James Hemphill availed himself of the results of said suit, (not by paying into the hands of the receiver in said cause the bank notes alleged to have been redeemed, paid and held by him as a cancellation of his liability as a stockholder, but) he proved his said bank notes as a creditor in said cause, and received his pro rata share of the fund realized in the said suit referred to; and if said defendant holds any of the bank notes of the Bank of Chester as alleged in said answer,
158 said notes are held by said defendant as a creditor of said bank (but are not held as redeemed and cancelled by the bank, in the payment of the liability of said defendant stockholder to pay the debts of said bank at its failure), and said stockholder has the right to prove said bank notes (if any are so held) as a creditor in this cause, and receive his pro rata share of the results of this suit; and said defendant stockholder is liable to pay the full amount of his liability heretofore incurred as charged in complainant's bill in this suit; that no mutual dealings, credits, charges, or set off exists between this complainant and defendant stockholders, nor any reason why said defendant stockholder should be allowed to set off his bank bills against his said liability and placed in better condition than the complainant in this suit, to the detriment of this complainant.

That complainant did exhibit his bill in this cause for discovery and relief on the 2nd day of December, 1870, against said bank and all
159 of the stockholders of said bank (known and unknown); that the officers and stockholders of said bank that were served with process under said original bill, refused to disclose the names of the stockholders of said bank as required under said bill, and concealed the names of all persons stockholders holding shares in said bank at that date. That said James Hemphill knew of said suit when said bill was filed, and knew that he was a stockholder and a necessary party to said bill, and knew that the legal representative of all stockholders deceased were necessary parties to said bill; yet the said James Hemphill and all other stockholders of said bank, and the legal representatives of all of the deceased stockholders of said bank, refused to appear and become parties to said suit then of public record; and said stockholders and the legal representatives of all stockholders deceased, remained concealed and unknown to complainant until after the exhibition of his amended-amended bill; that complainant has used
160 due diligence to discover and make parties defendant (all stockholders and the legal representatives of deceased stockholders) to said suit; and if any necessary parties to said bill exist within the jurisdiction of this court, who have not been made parties defendant thereto, then the names of said necessary parties defendant are unknown to complainant and are concealed by said defendant officers and stockholders of said bank from this complainant and he cannot make them parties to said suit, by reason of defendants' laches.

That complainant did exhibit his original bill and in pursuance thereof his amended-amended bill within four years after said action accrued (counting out the time that process of said court was denied to repliant by stay laws of the State of South Carolina, and by the stay of said process by military orders enforced in the district of South Carolina), and complainant has amended his bill and amended bill and added the names of all necessary parties defendant as they have been discovered or known to him; that the exhibition of complainant's amend-
161 ed bill and the amendments thereto, in pursuance of, and in aid of said original bill is a part of, design, and substance of said original bill, made necessary and developed by the proceedings had in said cause subsequent to the filing of said original bill; and all of said proceedings relates back to the original cause of action, and must be considered as of proceedings of that date; that said original bill was intended to test the liability of the stockholders of said bank to pay the debts of said bank at its failure, and all subsequent proceedings are for that purpose; repliant denies that the expiration of the charter of said bank releases the liability of said James Hemphill (or any other stockholder defendant in this suit) to pay the debts of said bank due to this repliant as charged in complainant's bill; that no part of the claim of complainant in this cause has been paid by the decree of the circuit court of Chester County, South Carolina, but complainant's bank notes as listed are wholly due and unpaid, and in possession for proof of debt.

162 That no repeal of the charter of the Bank of Chester has ever been made by any act of the legislature of South Carolina, as determined by the decision of the supreme court of said State in a parallel cause, and without this that there is any other matter or thing in the said answer contained material or effectual in the law to be replied unto, confessed, avoided, traversed, or denied is true; all of which matters and things this repliant is and will be ready to aver and prove as this honorable court shall direct, and humbly prays as in and by his said bill he hath already prayed.

HARVEY TERRY,
Complainant.

No. 51.

Affidavit.

Harvey Terry, being duly sworn, says that the above replication to the answer of James Hemphill, one of the defendants, is true as to things of his own knowledge, and as to things stated upon information & belief he believes them to be true.

HARVEY TERRY.

163 Subscribed and sworn to before me this 4th day of September.
[SEAL.] J. E. HAGOOD,
C. C. C. U. S., Dist. S. C.

The complainant Harvey Terry, filed similar replications to the answers of the following defendants, as above, to wit: S. W. Mobley, J. A. Bradley, Margaret Moffett, Nicholas Colvin, John L. Harris, trustee, David Lyles, adm'r. John L. Harris, ex'r, William Munro, adm'r, John G. Steele, adm'r, W. A. Clark, adm'r, Erskine College, B. J. Witherspoon, adm'r, L. S. White, adm'r, John M. White, adm'r, T. J. Cureton, James Hemphill, ex'r, William Caldwell, John J. McLure, A. P. Wiley, B. McLure, A. B. Springs, B. B. Grier, ex'r, C. Gardelock, ex'ix.

And on the 4th day of September, A. D. 1876, came into court the defendant, J. Harvey Smith, by his solicitors, McCrady and Son, and filed the following demur'er, which demur'er is in the words and tenor following:

No. 52.

Demurrer.

164 UNITED STATES OF AMERICA,
Eastern District South Carolina, Fourth Circuit:

HARVEY TERRY
vs.
THE BANK OF CHESTER AND J. J. MCLURE, receiver, et al.

The separate demurrer of J. Harvey Smith to the said complainant's bill of complaint.

This defendant, by protestation, not confessing or acknowledging all or any of the matters and things in the said complainant's bill to be true, in manner and form as the same are therein set forth and alleged, doth demur thereto, and for cause of demurrer showeth that the said complainant hath not, in and by his said bill, made or stated such a case as doth or ought to entitle him to any such relief as is thereby sought and prayed for from or against these defendants; wherefore this defendant demands the judgment of this honorable court, whether
165 they shall be compelled to make any further or other answer to the said bill, or to any of the matters and things therein contained, and pray to be hence dismissed with his reasonable costs and charges in this behalf sustained.

McCRADY & SON,
Def'd'ts' Att'ys.

No. 53.

Affidavit.

Personally appeared before me J. Harvey Smith and made oath that these demurrers are not interposed for delay.

J. H. SMITH.

Sworn to before me this 17th day of July, 1876.
[SEAL.] GEO. W. CURTIS,
Not. Pub.

No. 54.

Attorney's certificate.

We certify that in our opinion the above demurrers in the case are well founded in point of law.

McCRADY & SON,
Solicitors.

166 The following named defendants united in the demurrer of J. Harvey Smith, to wit, Robert W. Brice, G. J. Patterson, James S. Gibbes, Phineas Pierce, W. T. Robinson, John Cairns, W. A. Walker,

S. Y. Tupper, James W. Kee, Samuel McAliley, R. M. Hemphill, R. S. Hope, W. E. Adams, William McCandless, Elizabeth McCandless, A. S. Johnston, trustee; Rudolph Brandt, surviving partner of Bennett, Wilson & Co.; Robert Mills, adm'r; J. L. Adams, ex'r; Alexander Walker, adm'r; Robert N. Hemphill, adm'r; William Stringfellow, adm'r; Susan J. Springs, ex'x; Mrs. P. B. Gaston, ex'x; Agnes C. Bryce, adm'x; R. S. Hope, adm'r; James M. McDaniel, adm'r; John S. Bratton, adm'r; C. C. McCoy, adm'r; C. C. McCoy, adm'r; John B. Cornwell, adm'r.

And on the 7th day of September, A. D. 1876, came into court the complainant, Harvey Terry, per se, and filed the following replication to demurrer of J. Harvey Smith, which replication is in the words and tenor following:

No. 55.

Replication.

167 UNITED STATES OF AMERICA,
District of South Carolina, Fourth Circuit:

In equity.

HARVEY TERRY
vs.
THE BANK OF CHESTER ET AL.

The replication of Harvey Terry, plaintiff, to the demurrer of J. Harvey Smith, one of the defendants in said suit.

This repliant, saving and reserving to himself now and at all times hereafter, all and all manner of benefit and advantage of exception which may be had or taken to the manifold insufficiencies to the said plea of demurrer, and for replication thereunto saith that he will aver, maintain, and prove his said bill to be true, certain, and sufficient in the law to be answered unto, and that the said demurrer of said defendant is uncertain, untrue, and insufficient to be replied to by this repliant; without this, that there is any other matter or thing in the said demurrer contained material or effectual in the law to be replied unto, confessed,
168 avoided, traversed, or denied is true; all of which matters and things this repliant is and will be ready to aver and prove as this honorable court shall direct, and humbly prays as in and by his said bill he hath already prayed.

HARVEY TERRY,
Complainant.

No. 56.

Affidavit.

Harvey Terry, being duly sworn, says that the replication to the demurrer of J. Harvey Smith, one of the defendants, is true as to things of his own knowledge, and as to things stated on information and belief, he believes them to be true.

HARVEY TERRY.

Subscribed and sworn to before me this 7th day of September, 1876.
[SEAL.] J. E. HAGOOD,
C. C. C. U. S., Dist. S. C.

The complainant, Harvey Terry, filed similar replications as above to the demurrers of the following defendants, to wit, R. S. Hope,
169 W. E. Adams, William McCandless, E. McCandless, A. S. Johnston, trustee; A. S. J. Perry, trustee; R. Brandt, surviving partner of Bennett, Wilson & Co.; Robert Mills, adm'r; J. L. Adams, ex'r; Alexander Walker, adm'r; R. N. Hemphill, adm'r; Robert W. Brice, G. J. Patterson, James S. Gibbes, Phineas Pierce, W. T. Robinson, John Cairns, W. A. Walker, S. Y. Tupper, James W. Kee, Samuel McAliley, R. N. Hemphill, William Stringfellow, adm'r; Susan J. Springs, ex'x; Mrs. P. B. Gaston, ex'x; Agnes C. Bryce, adm'r; G. J. Patterson, adm'r; John S. Bratton, adm'r; J. M. McDaniel, adm'r; R. S. Hope, adm'r; John B. Cornwell, adm'r; C. C. McCoy, adm'r, and C. C. McCoy, administrator.

And on the 18th day of September, A. D. 1876, came into court the defendant Thomas H. Croft, executor of George S. Cameron, deceased, by his solicitors Simons and Simons, and filed the following answer, which answer is in the words and tenor following:

No. 57.

Answer.

THE UNITED STATES OF AMERICA,
District of South Carolina:

In the circuit court. In equity. Fourth circuit.

170 The several answer of Thomas H. Croft as executor of the last will and testament of George S. Cameron, deceased, to the amended-amended bill of complaint of Harvey Terry, complainant, against this defendant and others as stockholders of the Bank of Chester.

This defendant and at all times hereafter saving and reserving to himself all benefit and advantage of exception which now or at any time may be had or taken to the many errors, uncertainties, and insufficiencies in the said complainant's said amended-amended bill of complaint contained, for answer thereunto, or unto so much and such parts thereof as this defendant is advised is or are material for him to answer unto, answering says:

That he admits that the Bank of Chester was a body corporate by and under the laws of the State of South Carolina, and organized in pursuance of the act of the general assembly thereof, passed on the 16th day of December, 1852, entitled "An act to recharter the
171 Planters' and Mechanics' Bank of South Carolina, the Union Bank of South Carolina, the Commmercial Bank of Columbia, and to incorporate the Exchange Bank of Columbia, the Farmers' and Exchange Bank, and the People's Bank of Charleston, the Bank of Newberry, the Bank of Chester, the Bank of Sumterville, the Planters' Bank of Fairfield, and the Western Bank of South Carolina at Anderson," and that the said Bank of Chester was incorporated for a period of twenty-one years from the first day of January, eighteen hundred and fifty-three.

That this defendant admits that the said Bank of Chester did act upon the liabilities and franchises in its said charter set forth, and transacted business as stated in the said amended amended bill of complaint.

That this defendant denies all the other allegations in the said amended amended bill of complaint contained as to the rights, liberties, and liabilities of the said bank as conferred and imposed by the said act, except that by the said act it was declared that the said Bank of Chester
172 "shall have and possess the same rights and privileges, and be subject to the same duties, liabilities, obligations, regulations, and restrictions herein provided for the said Planters' and Mechanics' Bank, and Union Bank and Commercial Bank;" and this defendant alleges that the fourth section of the charter of the said Planters' and Mechanics' Bank was not made a part of the charter of the Bank of Chester, and he further denies that in and by the aforesaid act of the general assembly it is provided that, in case of failure of the Bank of Chester, each stockholder, copartnership, or body politic having a share or shares in said bank at the time of such failure, or who shall have been interested therein at any time within twelve months previous to such failure, shall be liable and held bound individually for any sum not exceeding twice the amount of his, her, or their share or shares; and he further denies that there is any provision in the charter of the
173 said Bank of Chester, that in the event of the failure of such bank any stockholder shall be liable in any amount or sum whatever for the redemption of the bills of the said bank, or for any of the debts of the said bank.

That he admits that at an earlier date than the first day of March, A. D. eighteen hundred and sixty-five, the said Bank of Chester had failed, being then indebted to an amount far exceeding its assets.

That this defendant denies that owing to the refusal and failure of the said bank the stockholders, copartnerships, and bodies politic having a share or shares therein at the time of such failure, or who were interested therein at any time within twelve months previous to such failure, became liable for the debts of the said bank, in sums not exceeding twice the amount of his, her, or their shares.

That this defendant admits that the act of the general assembly of the said State, entitled "An act to enable the banks of this State to resume business or to place them in liquidation," approved
174 March 13, A. D. 1869, provides "that all the banks incorporated by the authority of this State, and which have by said authority issued bills of credit, known as bank bills, and have failed to comply with said corporate privileges by refusing to pay their bills of credit, and are now thus failing to comply with the provisions of said act of incorporation in this particular, and shall so continue to violate said act until the first day of December, A. D. 1869, shall forfeit all corporate rights and privileges and are forbidden to transact any business as banking institutions."

That this defendant admits that, by the second section of the last named act, the judge of the circuit in which any bank failing to comply with the requirements of the first section of the same is situated, is empowered, upon being notified of such failure, to appoint a suitable person as receiver of the property of such bank, who should take charge thereof, after giving such bond as is required by said act.

That this defendant admits that, at various times previous to
175 the said first day of December, A. D. 1869, in pursuance of the said last named act, upon a notification made by Hon. J. L.

Neagle, comptroller general of the State of South Carolina, that said Bank of Chester had failed to comply with the requirements of said act, John J. McLure was, by an order made by the Hon. William M. Thomas, judge of the sixth circuit of said State, duly appointed receiver of the property and assets of the said bank; that he has duly entered into bond in conformity to the said act and order, and took possession of the property and assets of said bank.

That this defendant admits that, on the 8th day of January, A. D. 1870, it was ordered by the said Judge Thomas that all creditors and billholders of said bank be enjoined from proceeding at law against said bank.

This defendant, further answering, says that he knows not, nor has he been informed, save by said complainant's said amended-amended bill, and he cannot set forth as to his belief or otherwise, whether
176 of the bills of credit of said bank, or promissory notes, payable to bearer on demand, and constituting a portion of the circulating medium intended to be furnished by said bank in accordance with its charter, a large amount is the property of the complainant, or whether the same came to him in the regular course of trade, or for valuable consideration, or whether Exhibit A is a true schedule of the dates & amounts of the bills alleged to be held by the complainant.

That this defendant denies that the complainant is entitled to have payment of his alleged debt out of the property of all persons who were stockholders of said Bank of Chester at the time of its failure, or were interested therein at any time within twelve months previous to its failure.

Further answering, this defendant says that he cannot say whether his testator was a stockholder of the said Bank of Chester at the time of its failure or within twelve months previous to said failure, as it has not been legally ascertained nor does it appear from, nor is it alleged
177 in said amended-amended bill of complaint at what time the said bank failed.

This defendant admits that his testator was president of said bank, but this defendant does not know whether his testator the said George S. Cameron was or was not a stockholder in said bank, or if he was, how many shares of said stock were held by him or at what time. His only knowledge or information in relation to the matter is that he finds in testator's ledger an account shewing certain stock which he supposed from the dates & circumstances to be that hereinafter mentioned; that he has found among testator's papers two certificates for stock in the Bank of Chester as follows: one numbered one hundred & thirteen, dated the 27 day of March, 1856, whereby it is certified that Geo. S. Cameron, in trust for the estate of H. P. Cameron, is the owner of eighty shares of the capital stock of the Bank of Chester, So. Ca., which said certificate is in the hands of this defendant's solicitors ready to be produced before this honorable court. And the other certificate numbered
178 two hundred and twenty, dated the 30th day of March, A. D. 1863, certifying that George S. Cameron was the owner of two hundred and thirty-five shares of the capital stock of the Bank of Chester, which last mentioned certificate is assigned in blank by the said George S. Cameron without date, and which certificate is likewise in the hands of the solicitors of this defendant ready to be produced before this court whenever required.

This defendant denies that his testator or his estate is under liability by reason of the ownership of said George S. Cameron of the said stock in the first above mentioned certificate set forth. And this defendant

alleges that on the 30 day of March, 1863, the said Bank of Chester had already failed.

And this defendant further denies that his testator assumed the responsibility of a joint maker of the bank notes of the said bank, or in any way became a co obligor to pay the debts and bank notes of said bank outstanding to the bearer thereof.

179 And as to the prayer of said amended amended bill, "that an account may be taken by and under the direction of this honorable court of the claims of your orator & of all other debts due by the said bank and remaining unpaid, and that all & singular the billholders and creditors of the said bank may be summoned and notified by the order of this honorable court to come forward according to the practice of this court to establish the claims due by the said bank & stockholders to them the billholders and other creditors of the said bank who may come in and contribute to the expenses of this suit, this defendant submits that this court has no jurisdiction of the cause in this behalf, inasmuch as the court of common pleas for Chester County, in the State aforesaid, has heretofore under the proceedings mentioned in complainant's amended-amended bill taken an account of the claims of Harvey Terry, the complainant, and of all other debts due by said Bank of Chester, and that all the billholders and creditors of the said bank have been
180 summoned and notified by the order of the State court to establish the claims and demands due to them; that the complainant and other creditors have established such claims & demands and have already received a dividend thereon, to wit, thirty-six and one half per centum.

This defendant, further answering, says, for defences to the alleged cause of action set forth in said complainant's amended amended bill:

1. That the complainant did not bring the said action against this defendant or his testator within four years next after the failure of the said Bank of Chester.

2. That the cause of action stated in the amended amended bill did not accrue within four years before the commencement of this action as against this defendant as stockholder.

3. That, as is alleged in the complainant's amended amended bill of complaint, on the 13th day of March, 1869, an act was passed by the general assembly of the State of South Carolina, by which it was
181 provided that unless the said Bank of Chester should on or before the first day of December, 1869, commence paying its bills of credit, agree to redeem its bills, and in other respects comply with the provisions of the act incorporating said bank, it, said bank, should forfeit all its corporate rights and privileges. That by said act all acts and parts of acts inconsistent therewith were repealed. That said Bank of Chester did fail and has failed to pay its bills of credit, redeem its bills, & in any respect, comply with the provisions of the act incorporating the bank before or on the 1st day of December, 1869, and ever since, as set forth in complainant's amended amended bill. That the said act of the general assembly in no manner or words provided for a continuation of the liability of stockholders of the said bank after the forfeiture of its corporate rights and privileges.

That long prior to the filing of complainant's bill, to wit, on 1st day of January, 1874, the charter of said Bank of Chester expired
182 by its own limitation, by reason of which and the non existence of any act of the general assembly of the State of South Carolina providing for a continuation of the alleged liability of the stockholders after such expiration of charter, the alleged liability can no

longer exist on the part of the said testator or his estate for any default of the said bank or for any of its debts or outstanding bills of said bank, even if any such alleged liability ever did exist.

And this defendant hereby reserves to himself, whenever it shall be legally ascertained when said Bank of Chester failed, to interpose a plea of the non-joinder of all who were stockholders at the time of said failure or at any time within twelve months previous thereto, and who have not been made parties defendants to the said amended amended bill.

And this defendant, further answering, says that the said George S. Cameron departed this life on the 21st day of February, eighteen hundred and seventy-five, leaving his last will and testament in full
183 force, of which this defendant is the sole qualified executor; that this defendant proceeded to administer the said estate according to law, and duly advertised for creditors according to law; that his testator was never legally served with any process in this case whatsoever, and that as soon as this defendant was made a party to this suit and notified of the claim set up against the estate of his testator by the complainant, of which he had received no notice under his call for creditors against the said estate made according to law, he at once determined to postpone a final statement of the estate until the question of this liability should be settled.

And this defendant is ready and willing to submit his said accounts as executor, which are voluminous, whenever required.

And this defendant submits that he cannot be held liable under the charter of said bank in his capacity as executor.

And this defendant denies, and so forth, without this, that there
184 is any other matter, cause, or thing in said complainant's amended amended bill of complaint contained material or necessary for him to answer to and not herein and hereby well & sufficiently answered, confessed, traversed, and avoided or denied, is true to the knowledge or belief of this defendant, all which matters & things this defendant is ready and willing to aver, maintain, & prove, as this honorable court shall direct, and he prays to be hence dismissed with his reasonable costs and charges in this behalf wrongfully sustained.

SIMONS & SIMONS,
Def'd't's Sol'rs.

No. 58.

Affidavit.

THE UNITED STATES OF AMERICA,
South Carolina Dist.:

Thomas H. Croft, the defendant above named, being duly sworn, says the statements contained in the foregoing answer are true to his own knowledge, except the matters therein stated on information &
185 belief, & as to those he believes them to be true.

THOS. H. CROFT,
Ex'r Est. Geo. S. Cameron.

Sworn before me this 18th Sept., 1876.

A. J. SAMSON, *Not. Pub.*

And on the 29th day of September, A. D. 1876, came into court the complainant, Harvey Terry, per se, and filed the following replication to answer of Thomas H. Croft, executor of Geo. S. Cameron, deceased, which replication is in the words and tenor following:

No. 59.

Replication.

UNITED STATES OF AMERICA,
District of South Carolina :

Fourth circuit. In equity. Term, 1876.

HARVEY TERRY
vs.
THE BANK OF CHESTER, J. J. MCLURE, RECEIVER, et al.

The replication of Harvey Terry, plaintiff, to the answer Thos. H. Croft, esq, as executor George S. Cameron, dec'd, one of defendants in said suit.

186 This repliant, saving and reserving to himself now and at all times hereafter all and all manner of benefit and advantage of exception which may be had or taken to the manifold insufficiencies of the said plea, of answer and for replication thereunto saith that he will aver, maintain, and prove his said bill to be true, certain and sufficient in the law to be answered unto, and that the said answer of said defendant is uncertain, untrue, and insufficient to be replied to by this repliant; that the suit of the State of South Carolina ex relation of W. H. Brawley, solicitor, was not a suit against the defendants in the present cause and has no connection with this present suit to affect its jurisdiction or validity, and no payment whatever has been made on the subject-matter in this suit; that complainant did exhibit his original bill, and in pursuance thereof his amended amended bill, within four years after said action accrued (counting out the time that the process of said United States circuit court was denied to your repliant
187 by stay laws of the State of South Carolina, and by the stay of said process by military orders enforced in the district of South Carolina, and complainant was informed, and believes, that the original process in this suit was duly served on said Geo. S. Cameron, during his lifetime, within four years subsequent to the failure of said bank, as before stated; that a right vested against a stockholder under said charter survives the charter of said bank, but no repeal of said charter was made by the legislature, and said executor ought to account in this cause for the property of said George S. Cameron, deceased; that complainant, by his amended bills, added the names of all stockholders and proper defendants to him known in said cause, and if any other or further defendants exist, they are concealed from complainant, and said answering defendant refuses to disclose any such necessary defendants in existence; that said suit is not barred by the statute of limitations; without this, that there is any other matter or thing in the
188 said answer contained, material or effectual in the law to be replied unto, confessed, avoided, traversed or denied, is true; all of which matters and things this repliant is and will be ready to aver and prove, as this honorable court shall direct; and humbly prays as in and by his said bill he hath already prayed.

HARVEY TERRY,
Complainant.

No. 60.

Affidavit.

Harvey Terry, being duly sworn, says that the replication to the Thos. H. Croft, ex. of Geo. S. Cameron, dec'd, one of defendant, is true as to things of his own knowledge, and as to things stated on information and belief, he believes them to be true.

HARVEY TERRY.

Subscribed and sworn to before me this 27th day of September, 1876.
B. I. BOONE, *Not. Pub.*

And on the 6th day of December, A. D. 1876, came into court
189 the complainant, Harvey Terry, per se, and filed the following suggestion of the death of Norman M. Porter, which suggestion is in the words and tenor following:

No. 61.

Suggestion.

In the U. S. cir. court for the dist. of S. Carolina. In equity.

HARVEY TERRY
vs.
THE BANK OF CHESTER, J. J. MCLURE, RECEIVER, et al.

And now comes the complainant and suggests the death of Norman M. Porter, one of the defendants named in the bill of *of* complaint, and that no legal representative has been appointed or exists to represent said decedent in this action.

HARVEY TERRY,
Complainant.

And on the 19th day of December, A. D. 1876, came into court
190 the defendants, Giles J. Patterson et al., by their solicitors, McCrady and Son, and obtained the following order dismissing bill, which order is in the words and tenor following:

No. 62.

Order.

THE UNITED STATES OF AMERICA,
District of South Carolina, Fourth Circuit:

In equity.

HARVEY TERRY
vs.
J. J. MCLURE, RECEIVER BANK OF CHESTER, et al.

On hearing the pleadings in this case, and upon argument of counsel, on motion of McCrady & Son, it is ordered that the demurrers of Giles

J. Patterson; J. Harvey Smith, Samuel McAiley, John Cairns, W. T. Robinson; Rudolph Brandt, surviving partner of Bennett, Wilson & Co.; Rev. W. Brice, William A. Walker, Robert N. Hemphill, Robert S. Hope, Phineas Pierce, William McCandless, Elizabeth McCandless, William E. Adams, James W. Kee, S. Y. Tupper; Giles J. Patter-
191 son, administrator for J. C. Lifford; Alexander Walker and Robert Walker, administrators of Adam Walker, deceased; Robert N. Hemphill, administrator of James M. Brawley, deceased; James M. McDaniel, administrator of William Knox; William Stringfellow, administrator of Philip Walker, deceased; Agnes C. Brice, now Agnes C. Mitchell, administratrix of John Brice, deceased; John S. Bratton and R. S. Hope, administrators of Samuel Rainey, deceased; J. Leander Adams, as executor of John H. Adams; Mrs. P. B. Gaston, executrix of J. B. Gaston; Robert Mills, administrator of James Y. Mills, deceased; Susan J. Springs, executrix of R. A. Springs, be sustained, and the bill and amended bills in this cause do stand dismissed, with costs as to the parties brought in by amendment of the 6 March, 1876.

19 Dec., 1876.

HUGH L. BOND.

And on the 19th day of December, A. D. 1876, came into court the defendant, James S. Gibbes, by his solicitors, Simonton and Barker, and obtained the following order, dismissing bill, which order is in the words and tenor following:

No. 63.

Order.

192 THE UNITED STATES OF AMERICA,
District of South Carolina, Fourth Circuit:

In equity.

HARVEY TERRY
vs.
J. J. MCLURE, RECEIVER BANK OF CHESTER, et al.

On hearing the pleadings in this case and argument of counsel, on motion of Simonton & Barker, it is ordered that the demurrer of James S. Gibbes be sustained and the bill and amended bills in this cause do stand dismissed with costs as to the parties brought in by amendment of 6 March, 1876.

19 Dec., 1876.

HUGH L. BOND.

And on the 19th day of December, A. D. 1876, came into court the defendants, John B. Cornwell, administrator of Jordan Bennett, et al., by their solicitor, S. P. Hamilton, and obtained the following order dismissing bill, which order is in the words and tenor following:

No. 64.

Order.

193 THE UNITED STATES OF AMERICA,
District of South Carolina, Fourth Circuit:

In equity.

HARVEY TERRY
vs.
J. J. MCLURE, RECEIVER BANK OF CHESTER, et al.

On hearing the pleadings in this case and argument of counsel, on motion of S. P. Hamilton, it is ordered that the demurrers of John B. Cornwell, administrator of Jordan Bennett; C. C. McCoy, administrator of John Poag, and also as administrator of N. R. Eaves, be sustained, and the bill and amended bills in this cause do stand dismissed with costs as to parties brought in by amendment of the 6th March, 1876.
19 Dec., 1876.

HUGH L. BOND.

And on the 19th day of December, A. D. 1876, came into court the defendants, A. S. Johnston, trustee, et al., by their solicitors, Buist and Buist, and obtained the following order dismissing bill, which
194 order is in the words and tenor following:

No. 65.

Order.

UNITED STATES OF AMERICA,
District of South Carolina, Fourth Circuit:

In the circuit court.

HARVEY TERRY, COMPLAINANT,
against
BANK OF CHESTER, J. J. MCLURE, RECEIVER, et al., defendants.

Order dismissing bill.

On hearing argument and on motion of Buist & Buist, solicitors of A. S. Johnston, trustee, and A. S. J. Perry, trustee of Martha J. Perry, it is ordered that the demurrers by them filed be sustained, and that the bill be dismissed against them respectively with costs.
19 Dec., 1876.

HUGH L. BOND.

And on the 20 day of December, A. D. 1876, came into court the complainant, Harvey Terry, per se, and filed the following exceptions
195 to ruling sustaining demurrers, which exceptions are in the words and tenor following:

No. 66.

Exceptions.

UNITED STATES OF AMERICA,
District of South Carolina:

In the U. S. cir. court, Nov. term, 1876. In equity.

HARVEY TERRY
vs.
BANK OF CHESTER, J. J. MCLURE, REC'R, ET AL.

The complainant excepts to the ruling of the court in this cause sustaining the demurrers of the defendants, A. S. Johnston, trustee; A. S. J. Perry, trustee for Mrs. Martha Perry; C. C. Macoy as adm'r of N. R. Eaves; C. C. Macoy as adm'r of John Poag; John B. Cornwell as adm'r of Jordan Bennett; R. S. Hope as adm'r of S. Rainey; James M. McDaniel, adm'r of Wm. Knox; Agnes C. Bryce as ex'x of John Bryce; Mrs. P. B. Gaston as ex'r'x of .. B. Gaston; Susan J. Springs as ex'r'x of R. A. Springs; Wm. Stringfellow as adm'r of Philip Walker; Robert N. Hemphill as adm'r of J. M. Brawley; Alexander Walker as
196 adm'r of Adam Walker; J. Leander Adams as ex'r of J. H. Adams; Robert Mills as adm'r of J. Y. Mills; Rudolph Brandt as surviving partner of Bennett, Wilson & Co.; Giles J. Patterson, Robert W. Bryce, J. Harvey Smith, Phineas Pierce, W. T. Robinson, John Cairns, Wm. A. Walker, James S. Gibbes, Elizabeth McCandless, Wm. McCandless, Wm. E. Adams, Robt. S. Hope, Robert N. Hemphill, Sam'l McAliley, James W. Kee, S. Y. Tupper; John S. Bratton as adm'r of S. Rainey; Giles J. Patterson as adm'r of J. C. Lifford.

1st. Because the defendants should not have been allowed to demur to said bill upon the ground that the statute of limitations was a bar to said action; that defence ought to have been made by answer and the bill ought to have been sustained.

2nd. Because the original bill in this action made all of the stockholders of the Bank of Chester defendants in said suit, and complainant served all of the stockholders as defendants that were known to him to be stockholders, and prayed for a discovery of all other stockholders defendant, and prayed for process against said defendants
197 when discovered in this cause.

3rd. Because the defendant stockholders demurring were concealed from the knowledge of the complainant, and remained concealed from the knowledge of complainant and concealed from the process of this court in this cause until discovery made by the defendants originally served and brought into court by the original bill.

4th. Because the original bill filed in this cause is and should be considered to be the date of the commencement of the action (against all of the defendants discovered and brought into court by supplemental proceedings in this action) so that relief may follow discovery of the defendants.

5th. Because these defendants demurred on the ground of the statute of limitations applied as to them from the date of the actual service of the summons under the supplemental bill, whereas the statute of limitations does not apply to bar complainant's bill as originally filed, and the statute therefore ought not to apply to bar complainant's sup-

198 plemental bill in virtue of the discovery made by process of the original bill.

Dec. 19, 1876.

HARVEY TERRY,
Complainant.

And on the 20th day of December, A. D. 1876, came into court the defendant, Thomas H. Croft, executor of George S. Cameron, by his solicitors, Simons and Simons, and obtained the following order for leave to file supplemental answer, which order is in the words and tenor following:

No. 67.

Order.

THE UNITED STATES OF AMERICA,
District of South Carolina:

In the circuit court.

HARVEY TERRY
vs.
BANK OF CHESTER ET AL.

On hearing the plaintiff in propria persona and on hearing Simons & Simons for the defendant, Thos. H. Croft, executor, it is ordered that the said defendant have leave by filing a supplemental answer or
199 plea to bring to the attention of the court the non-joinder of parties defendants, the said supplemental answer or plea to be filed on or before the rules day in February next.

20 Dec., 1876.

HUGH L. BOND.

And on the 5th day of February, A. D. 1877, came into court the defendant, Thomas A. Croft, executor of George S. Cameron, by his solicitors, Simons & Simons, and filed the following supplemental answer, which answer is in the words and tenor following:

No. 68.

Supplemental answer.

THE UNITED STATES OF AMERICA,
District of South Carolina:

In the circuit court. In equity. Fourth circuit.

HARVEY TERRY
vs.
BANK OF CHESTER & J. J. MCLURE, receiver, et al.

Supplemental answer.

The supplemental answer of Thomas H. Croft, as executor of the last will and testament of George S. Cameron, deceased, to the amended amended bill of complaint of Harvey Terry against this defendant and others as stockholders of the Bank of Chester.

200 This defendant, now and at all times hereafter saving and reserving to himself all benefit and advantage of exception which

now or at any time may be had or taken to the many errors, uncertainties, and insufficiencies in the said complainant's said amended amended bill of complaint contained, for answer thereunto or unto so much and such parts thereof as this defendant is advised is or are material for him to answer unto, by way of supplemental answer, by leave of the court first had and obtained, answering, says:

That the said complainant should not be allowed to maintain his said suit, because he has not made parties thereto all the stockholders of the said Bank of Chester at the time of its failure.

That it never has been ascertained when the said Bank of Chester failed, yet the complainant in his amended amended bill of complaint included certain persons, besides this defendant, as defendants, alleging that they were stockholders of the said bank at the time of its failure, which said bill has lately been dismissed by this hon-
201 orable court as against certain of this defendant's co-defendants by the said complainant alleged to have been stockholders of the said bank at the time of its said failure, on the ground that the suit against them was barred by the statute of limitations.

And this defendant prays the same benefit and advantage of this defence in bar of the said suit as if the same had been specially pleaded.

SIMONS & SIMONS,
Def't's Att'ys.

No. 69.

Affidavit.

THE UNITED STATES OF AMERICA,
District of South Carolina:

Thomas H. Croft, the above named defendant, being duly sworn, says the foregoing supplemental answer is true to his own knowledge, except as to those matters therein stated on information and belief, and as to those he believes it to be true.

THOS. H. CROFT,
Exec't'r Est. Geo. S. Cameron.

Sworn to before me this 5th Feb'y, 1877.
[L. S.]

WM. H. GRAY,
Not. Pub.

202 And on the 20th day of March, A. D. 1877, came into court the complainant, Harvey Terry, per se, and filed the following replication to answer of Thomas H. Croft, executor of George S. Cameron, which replication is in the words and tenor following:

No. 70.

Replication.

UNITED STATES OF AMERICA,
District of South Carolina:

In the United States circuit court. In equity.

HARVEY TERRY
vs.
THE BANK OF CHESTER, J. J. MCLURE, receiver, & stockholders, et al.

Replication of Harvey Terry, the complainant in the above stated cause, in reply to the answer of Thos. H. Croft, esq., as the executor of George S. Cameron, deceased.

This repliant, now and at all times hereafter saving and reserving to

himself all benefit and advantage of exception and reply which now or at any future time may be had or taken to the many errors, un-
203 certainties, and insufficiencies in the said defendant's answer contained, for replication thereunto or to such parts thereof as this complainant is advised it is necessary to make reply, and says:

That George S. Cameron, esq., the defendant's testator, was duly served by the marshal of this court with a subpœna during his lifetime to make answer to the complaint in this cause; but that said defendant, Geo. S. Cameron, in his lifetime failed and refused to make answer to said complainant's bill, as by said subpœna he was required to do; and that the service of said Thos. H. Croft as the legal representative of said Geo. S. Cameron, deceased, is only the revival and continuation of said suit against the legal representative of said defendant that was originally brought and served on the defendant's testator personally.

That complainant's bill was brought for discovery and relief from all of the stockholders of said Bank of Chester, but the names of
204 most of the stockholders of said bank were unknown and undiscovered to this complainant at the date of filing of complainant's bill; and the defendant's testator refused to obey the command of said subpœna and appear and answer said complainant's bill and make discovery to the complainant of all of the stockholders of said bank (said testator being the president of said bank, and having the possession of the books of said bank, containing the names of all of the stockholders of said bank, and yet refused to answer and to make the discovery required), and before a full discovery of the stockholders could be had, it is alleged that the period of time had run sufficient for the statute of limitations to apply. This delay and the consequent application of the statute, as alleged, was not caused by the latches of the complainant, but it was caused by the latches of the defendant's testator and by his refusal to answer complainants' bill, and thus compelling complainant to file his amended bill in order to obtain the discovery sought,
205 and while the delay occurred in obtaining the discovery, it is alleged that the statute of limitations applied in bar of the suit against the parties discovered as defendant stockholders. And if said co-defendants of said defendants' testator have been legally discharged by the court for that reason, there is no cause, and can be no cause, under the United States statute (act of Feb'y 28, 1839, 5 U. S. Stat., 321), why said defendant should not remain bound and answer for all the liabilities incurred by his testator under the statute of charter of said bank; without this, that there is any other matter or thing in the said answer contained material or effectual in the law to be replied or denied is true; and humbly prays as in and by his said bill he hath already prayed.

HARVEY TERRY,
Complainant.

No. 71.

Affidavit.

CITY OF CHARLESTON, *ss*:

Harvey Terry, the complainant in the foregoing stated case,
206 being duly sworn, says that the replication to the answer of Geo. H. Croft, esq., executor of Geo. S. Cameron, dec'd, defendant, is true as to things of his own knowledge, and as to things stated on information and belief he believes them to be true.

HARVEY TERRY.

Subscribed and sworn to before me this 20 day of March, 1877.
J. E. HAGOOD,
C. C. C. U. S. Dist. S. C.

And on the 16th day of June, A. D. 1877, came into court the complainant, Harvey Terry, per se, and filed the following motion, which motion is in the words and tenor following:

No. 72.

Motion.

UNITED STATES OF AMERICA,
District of South Carolina:

In the United States circuit court. In equity.

HARVEY TERRY
vs.
BANK OF CHESTER, J. J. MCLURE, REC'V'R, et al.

207 And now comes the complainant and prays that a commission may issue in this cause from the circuit court of the United States for the district of South Carolina, directed to J. E. Hagood, esq., as a commissioner in the above-stated cause, to proceed and take the testimony of the following witnesses, citizens of the county of Chester, in South Carolina, residing more than one hundred miles from Charleston, S. C.: John A. Bradley, James Hemphill, S. W. Mobley, John J. McLure, duces tecum, C. C. McCoy, J. B. Cornwell, upon the interrogatories hereto annexed on behalf of the complainant, a copy whereof has been duly served on the defendants and their attorneys, Jas. H. Rion, esq., Wm. A. Clark, esq., Simmons & Simmons, on the 7th day of June, 1877, with notice to file cross-interrogatories if desired.

That said commissioner do proceed on the 25th day of June, A. D. 1877, at 10 o'clock a. m., at the Cotton Hotel, in Chester, to take the testimony of said witnesses under oath upon said interrogatories, and file the same in this cause.

HARVEY TERRY,
Complainant, pro personam.

208 And on the 16th day of June, A. D. 1877, came into court the complainant, Harvey Terry, per se, and obtained the following order appointing commissioner to take testimony, which order is in the words and tenor following:

No. 73.

Order.

In the United States circuit court, fourth circuit. In equity.

HARVEY TERRY
vs.
BANK OF CHESTER, J. J. MCLURE, RECEIVER, et al.

Order appointing commission.

On reading and hearing the ex parte motion and prayer of the com-

plainant for the appointment of a commissioner under the rule in the above entitled cause to take the testimony of John A. Bradley, James Hemphill, S. W. Mobley, John J. McLure, duces tecum, C. C. McCoy, J. B. Cornwell, upon the interrogatories thereto attached, copies of the same having been duly served upon defendants' counsel with notice to file cross-interrogatories thereto and therein, it is hereby ordered that the said commission do issue in this cause to said J. E. Hagood,
209 esq., as said commissioner, to subpœna and take the testimony of said witnesses and to file the same in said cause.

Approved 16th June, 1877.

GEO. S. BRYAN,
U. S. Judge Dist. of So. Ca.

No. 74.

Commission.

THE UNITED STATES OF AMERICA,
South Carolina District:

The President of the United States of America to J. E. Hagood, greeting:

Whereas a certain cause is now depending in the circuit court of the United States for the fourth circuit in the district of South Carolina, wherein Harvey Terry is complainant, and the Bank of Chester, J. J. McLure, et al., defendants. And it being necessary to the investigation of the said cause that certain persons resident in Chester, South Carolina, should be examined on certain interrogatories:

Now, know ye, that in confidence of your prudence, ability, and integrity, you are appointed, and by these presents full power
210 and authority are given to you, or any two or more of you, to examine all witnesses whatsoever, as well on the part of the said plaintiff as on the part of the said defendant or either of them, upon interrogatories, and therefore you, or any two or more of you, are hereby authorized and required, on certain days, and at certain places to be appointed by you for that purpose, to cause such witnesses to come before you, and then and there to examine each of them apart on the said interrogatories on their respective corporal oaths first taken, before you, or any two or more of you, and to reduce their depositions to writing, and return this writ to the judges of the said court at Charleston, in the State of South Carolina, under your seals, with the said interrogatories and depositions annexed.

And you, and every of you, are hereby further required that before you proceed to swear and examine any witness, you severally take the oath, first specified in the schedule hereunto annexed; and any one
211 of you is hereby authorized and empowered to administer such oath to the other or others of you. And you are hereby further authorized and required, jointly or separately, to administer the oath last specified in the said schedule hereunto annexed, to any clerk employed in taking the deposition of witnesses aforesaid, before such clerk is permitted to act or be present at such examination.

Witness the honorable Morrison R. Waite, Chief Justice of the United States of America, at Charleston, in South Carolina, district aforesaid, the 16th day of June, in the year of our Lord one thousand eight hun-

dred and seventy-seven, and in the 102 year of the sovereignty and Independence of the United States of America.

[SEAL.]

J. E. HAGOOD,
C. C. C. U. S. Dist. S. C.

No. 75.

Commissioners' oath.

You shall, according to the best of your knowledge, truly, faith-
212 fully, and without partiality to any or either of the parties in this cause, take the examination and deposition of all and every witness and witnesses, produced and examined by virtue of the commission hereunto annexed, upon the interrogatories now produced and left with you. And you shall not publish, disclose, or make known to any person or persons whatsoever, except the clerk or clerks by you employed, and sworn to secresy in the execution of this commission, the contents of all or any of the depositions of the witnesses or any of them, to be taken by you and the other commissioners in the commission named, or any of them, by virtue of the said commission, until publication shall pass by rule or order of the circuit court of the United States. So help you God.

J. E. HAGOOD, *Com.*

Sworn to before me July 25, 1877.

PHILIP H. JATHS,
Not. Pub.

No. 76.

Direct and cross interrogatories.

In the fourth circuit court of the United States for the district of South Carolina.

213 HARVEY TERRY
vs.
BANK OF CHESTER, J. J. MCLURE, REC'V'R, et al. } Bill in equity.

Interrogatories to be exhibited to John A. Bradley, James Hemphill, S. W. Mobley, John J. Mc McLure, duces tecum, C. C. McCoy, J. B. Cornwell, material witnesses for the complainant in the above stated cause, and who reside in the county of Chester, South Carolina, more than one hundred miles from Charleston, the place of holding said court.

1st interrogatory to all of the witnesses. What is your name, age, occupation, and where do you reside?

2nd. Were you acquainted with the affairs of the Bank of Chester, a banking corporation of the State of South Carolina, located at Chester? If so, state at what date was it organized as a bank; what was the amount of the capital of said bank and the par value of its shares from its organization up to the year 1865?

214 3rd. Up to what date did said bank continue to do business as a bank; receive deposits, discount notes, and make collections of debts due to the bank? If any protest was made on the bank bills of said bank, state the date of said protest of bank bills and by whom made.

If any suit was brought against said bank upon the bank-notes of said bank since the year 1860, state the date of said suit, and by whom brought, and upon what claim it was brought. Was any protest of the bank-bills made or any suit against the bank brought before the appointment of a receiver of the bank? If so, state the date of said suit or protest, and by whom brought or made.

4th. What amount of the circulation of said bank was outstanding on the 1st day of March, 1865; and what amount of the circulation of said bank was outstanding on the 31st of December, 1869, and whether any other indebtedness existed against the bank; and, if so, to what amount?

215 5th. Do you know the names of any persons holding shares of stock of said bank on the 1st day of March, 1865, or who were interested therein within 12 months previous thereto? If yea, give the name and state the number of shares held by each, and who were interested therein within 12 months previous to said date; if any transfers of shares were made after said date, March 1, 1865, state by whom made and to whom transferred.

6th. State anything within your knowledge material to the case that may tend to the benefit of the complainant.

Interrogatories to John J. McLure personally.

1st. Were you appointed receiver of the Bank of Chester; and, if so, at what date did you enter upon your duties as said receiver of said bank?

2nd. As receiver, did you receive the bank-books? Are the bank-books of said bank in your possession? If not in your possession, where are said books? If yea, please produce the bank-ledgers showing

216 the outstanding indebtedness of said bank on the 1st day of March, 1865. Please state the gross sum of the indebtedness of said bank at that date as shown by said ledger. Please state the gross sum of the indebtedness of said bank at the date that you assumed the office of receiver as shown by said ledgers.

3rd. Please produce the stock-ledger of said bank showing the names of the stockholders at the date that you assumed the office of receiver, and state the names of all persons then stockholders of said bank and the number of shares held by each; and if any transfers of shares have been made on said stock-ledger since March 1, 1864, state from whom made and to whom received.

HARVEY TERRY,
Complainant pro Personam.

To the defendants and their attorneys James H. Rion, esq., Wm. A. Clark, esq., Simons and Simons:

Take notice that the interrogatories of which the above is a copy have been this day filed in the office of the clerk of said United States circuit court, and after ten days from this date a commission will be ap-

217 plied for under the rule. Please serve cross-interrogatories if desired.

HARVEY TERRY,
Complainant pro Personam.

UNITED STATES OF AMERICA,
District of South Carolina :

In the circuit court. In equity.

HARVEY TERRY
vs.
THE BANK OF CHESTER, J. J. MCLURE, receive, et al.

Cross-interrogatories to be propounded to John A. Bradley, James Hemphill, S. W. Mobley, John J. McLure, duces tecum, C. C. Macoy, J. B. Cornwell, material witnesses for the complainant in the above-stated cause, who are residents of the county of Chester, in the State of South Carolina.

Cross-interrogatories to the third direct interrogatory to be propounded to all the witnesses.

1. After the first day of March, 1865, did the Bank of Chester
218 do any business as a bank proper, or merely proceed to wind up its business?
2. From and after that date did it not try to buy up its bills at a discount for the purpose of protecting its stockholders?
3. At what discount were you able to buy up the bills of the said bank?
4th. If the said bank ceased to do business as a bank before the first day of March, 1865, please state at what time it so ceased.

Cross interrogatory to the fifth direct interrogatory to be propounded to all the witnesses.

If you state that Col. John M. White, of Fort Mills, was a stockholder on the first day of March, 1865, please state where he now lives, and his solvency or insolvency.

General cross-interrogatories.

1. Was or was not the bank notoriously insolvent on and after the first day of March, 1865?
2. If the bank was notoriously insolvent before the first day of March, 1865, state when it so became notoriously insolvent.

JAS. H. RION,
Solicitor for divers Defendants.

219 UNITED STATES OF AMERICA,
District of South Carolina:

In the circuit court. In equity.

HARVEY TERRY
vs.
THE BANK OF CHESTER, J. J. MCLURE, RECEIVER, et al.

Cross-interrogatories to be propounded to John A. Bradley, James Hemphill, S. W. Mobley, Jno. J. McLure, duces tecum, C. C. Macoy, J. B. Cornwell, material witnesses for the complainant in the above-stated cause, who are residents of the county of Chester, in the State of South Carolina.

Cross-interrogatories to the third direct interrogatory to be propounded to all the witnesses.

1. After the first day of March, 1865, did the Bank of Chester do any business as a bank proper or merely to wind up its business?
2. From and after that date, did it not try to buy up its bills at a discount for the purpose of protecting its stockholders?
3. At what discount were you able to buy up the bills of the said bank?

220 4. If the said bank ceased to do business as a bank before the first day of March, 1865, please state at what time it so ceased.

Cross interrogatory to the fifth direct interrogatory to be propounded to all the witnesses.

If you state that Col. John M. White, of Fort Mills, was a stockholder on the first day of March, 1865, please state where he now lives and his solvency or insolvency.

General cross interrogatories.

1. Was or was not the bank notoriously insolvent on and after the first day of March, 1865?
2. If the bank was notoriously insolvent before the first day of March, 1865, state when it so became notoriously insolvent.

SIMONS & SIMONS,
Sol'rs for Thos. H. Croft, Ex'r.

No. 77.

Direct and cross answers.

UNITED STATES OF AMERICA,
District of South Carolina, Fourth Circuit:

In the circuit court. In equity.

221 HARVEY TERRY, COMPLAINANT,
vs.
THE BANK OF CHESTER, J. J. MCLURE, receiver, et al.

In obedience to the order of court in the above stated case, and under the commission hereunto attached by the said order, I attended at Cotton

Hotel, in the town of Chester, in the district aforesaid, on this the 25th day of July, 1877, for the purpose of taking the testimony of the several witnesses named in the order, and after being duly sworn by me, make the following answers to the interrogatories.

Answer to the direct interrogatories.

JAMES HEMPHILL, a witness residing at Chester, and material for the complainant.

1st. My name is James Hemphill; aged sixty-four years; profession, lawyer, and reside in Chester, South Carolina.

2nd. I was acquainted with the affairs of the Bank of Chester, a banking corporation of the State of South Carolina located at Chester;
222 the bank was organized in the fall of 1853; the capital stock of the bank was three hundred thousand dollars, and its par value of its shares from the organization was twenty-five dollars per share.

3rd. The bank ceased to do business after Sherman's raid, some time in February, 1865, and did not do any business as a bank nor receive deposits, or discount notes, or make any collections. I know of no protest of any of the bank-bills of said bank. No suit has been brought against the bank since 1860, except the one brought by the complainant in this case, by Harvey Terry, to recover the value of his bank-bills. No protest of the bank-bills was ever made to my knowledge, and no suit was brought against the bank before the appointment of a receiver, to my knowledge.

4th. I do not know the amount of circulation outstanding the 1st of March, 1865. Do not know the amount of the circulation outstanding on the 31 of December, 1869. Don't know of any other indebtedness existing against the said bank, except for the bills issued.

5th. I do not know the names of persons holding shares of stock
223 of said bank on the 1 of March, 1865, except those mentioned in my answer; in this case, when I filed my said answer, I gave all the names I knew to be stockholders; cannot now give the names. I know nothing further than that stated in my answer, which was stated more fully than I can give now.

6th. I know nothing further that will benefit the complainant.

Answer to cross-interrogatories of James Hemphill to 3rd direct interrogatory.

1st X. After the first day of March, 1865, the bank did not do any business as a bank proper, to my knowledge, only to wind up its business.

2nd X. From and after that date it did try to buy up its bills at a discount, for the purpose of protecting its stockholders.

3rd X. I cannot say at what rate.

4th X. I cannot state positively.

5th X. Do not know that John M. White was a stockholder; he is dead; his estate is solvent, as I am informed.

Answer to general cross-interrogatories.

1st. X. The bank was notoriously insolvent on the 1st of May,
224 1865; cannot say it was on the 1st of March, 1865.

2nd X. I have answered in the above to the insolvency and to the time as far as I know.

JAMES HEMPHILL.

Sworn to before me.

J. E. HAGOOD, *Com.*

JOHN J. McLURE, a witness on the part of the complainant, being sworn, says in answer to the 1st direct interrogatory:

1st. My name is John J. McLure; aged 50 years; lawyer and president of the National Bank of Chester, and reside at Chester, South Carolina.

2nd. I was acquainted with the affairs of the Bank of Chester, a banking corporation; was one of the directors for some years, and knew something of its affairs; the bank was organized in the 1853 as a bank, and went into operation the same year; the capital stock was three hundred thousand dollars; the par value of its shares from its organization to 1865 was twenty-five dollars per share.

3rd. The bank continued in active operation as a bank until Feb'y, 1865, when Sherman's army came through the State, at which
225 time all the books, papers, assets, &c., were sent off, and did receive deposits, discount notes, and make collections up to that time; no protest was ever made by any one to my knowledge of the bills of said bank. No suit has been brought against the bank or against the stockholders on account of its bills since 1860 except by the complainant, Harvey Terry, in this cause to recover on the bank bills which he has; no protest of the bank bills was ever made to my knowledge, and no suit was brought against the bank before the appointment of a receiver.

4th. The amount of the circulation of said bank outstanding about 1st of March, or at the close of the war in 1865, was about five hundred and sixty thousand dollars. There was outstanding in the bills of the bank on 31st December, 1869, about the sum of two hundred and twenty-five thousand dollars; there was no other indebtedness against the said bank.

5th. I know of none others, stockholders, holding shares of stock in said bank except those mentioned in my answer and my co de-
226 defendants' in this cause. I cannot now give the names of the persons holding & owning stock, and only refer to my answer filed in this cause and of my co-defendants as to who were stockholders. I do not know of any transfers of stock having been made.

6th. I do not know of anything material to the cause that will tend to benefit the complainant in this case.

Answer to interrogatories of John J. McLure personally.

1st. I was appointed receiver of the Bank of Chester and entered upon my duties as such receiver either in December, 1869, or January, 1870; do not know exactly the day.

2nd. As receiver of the bank I did receive the books of the bank, and such as I received are now in my possession. The books does not show any outstanding indebtedness of the bank in March, 1865; they only show the amount of the bills outstanding; the bank owed no debts other than its outstanding circulation of its bills; the only indebtedness of the bank at the time I was appointed receiver was for its bills
227 then outstanding, amounting to two hundred and twenty-five thousand dollars. As receiver I advertised and called in all claims against the said Bank of Chester, and no claims were presented except on account of its circulating bills of the bank, except some two or three hundred dollars drawn on Charleston, and which had never been presented for payment.

3rd. I do not know anything of the stock ledger; never had it in my possession, as receiver or in any way; have made enquiries and examin-

ations for the stock ledger; have never been able to ascertain its whereabouts, nor even its existence, since my appointment as receiver.

Answer to cross-interrogatories by John J. McLure. Answer to 3rd direct interrogatory.

1st X. The bank never done any business as a bank proper after the first of March, 1865. It proceeded to wind up the affairs of the bank.

2nd X. The bank did try to buy up its bills at a discount, for the purpose of protecting its stockholders.

228 3rd X. The bills were bought at from seven to twenty cents on the dollar; majority of the bills were purchased by the bank at ten cents on the dollar.

4th. It did not cease to do business before the first of March.

Answers to the fifth direct interrogatory.

1st X. I do not know whether John M. White was a stockholder or not. He lived at Fort Mills, S. C., but is now dead. His estate is solvent; so I have been informed.

2nd X. The bank was insolvent on the 1st of March, 1865. It was generally known that it could not redeem its bills in circulation in Confederat securities.

3rd X. It became notoriously insolvent; but cannot give the time. Its acknowledged insolvency was known when the doors of the bank closed, by or about the first of May, 1865.

JOHN J. McLURE.

Sworn to and subscribed this 25 July, 1877.

J. E. HAGOOD, *Com.*

SAMUEL W. MOBLEY, a witness for complainant, being sworn, says, in answer to first direct interrogatory:

229 1st. My name is Samuel W. Mobley; aged seventy-eight years; resident of Chester, South Carolina; occupation, a planter.

2nd. I was acquainted with the affairs of the Bank of Chester, a banking corporation of the State, located at Chester, S. C. Don't remember the date of organization as a bank. Do not remember the amount of capital when organized; it was afterwards increased. The par value of the shares was twenty-five dollars.

3rd. Do not remember when the bank discontinued to do any business, as a bank. Do not know of any protest of its bills of the bank. Do not know of any suit being brought against the bank on account of bank bills, except the suit by Harvey Terry, complainant in this cause, since 1860, or at any other time. Do not know of any protest of its bills. No suit was brought before the appoint' of the receiver, to my knowledge.

4th. Do not know anything in answer to the 4th direct interrogatory.

5th. I do know some of the persons holding stock in said bank in March, 1865, to wit, John J. McLure, James Hemphill, Major

230 Eaves, William A. Walker, Cornelius Caldwell, Robert Caldwell, John Adams, myself, and others that I do not now remember. Do not know the number of shares held by each, and who were interested. Do not think the bank was indebted to any one, except on account of its circulation of the bills of the bank.

th. I do not know anything further that will benefit the complain-

Answers to cross-interrogatories of Samuel W. Mobley to 3d direct interrogatory.

1st X. The bank did not do anything after 1 of March, 1865, as a bank proper; think the officers of the bank done all they could to wind it up; the officers had no meeting to my knowledge.

2nd X. I do not know.

3rd X. I do not know.

4th X. I do not remember when the bank ceased to do business.

1st X. The bank went down when the Confederacy went down; think it was solvent until Confederate money ceased to be good; after that time it was notoriously insolvent.

2nd X. Have fully answered above all I can now remember.

SAM'L W. MOBLEY.

231 Sworn to and subscribed before me this 25 July, 1877.

J. E. HAGOOD, *Com.*

JOHN A. BRADLEY, a witness for the complainant, being sworn, says, in answer to first direct interrogatory, *says:*

1st. My name is John A. Bradley; age, sixty-seven years; chief clerk & manager of the sheriff's office of Chester County, and reside in the town of Chester.

2nd. I was cashier of the Bank of Chester, a banking corporation, from its organization in September, 1853, to May, 1865. The capital of the said bank was three hundred thousand dollars. The shares was at par value at twenty-five dollars per share from its organization to 1865.

3rd. The bank continued to do business as a bank, receive deposits and discounts notes, and make collections due to the bank in Confederate currency up to the spring of 1865. No protest of any of the bills of the bank was ever protested while I was connected with the bank.

232 The only suit brought against the bank since 1860 to this time was this suit by Harvey Terry, complainant; no other person has ever commenced any suit against the bank. No protests of the bills of the bank was ever made, and no suit was commenced against the bank until after the appointment of the receiver.

4th. I cannot say, not having the books to refer to; not having access to them since I left the bank in 1865.

5th. I did at one time know who were stockholders; there was about one hundred of them, but not having access to the books can't now give the names of the stockholders. I could mention some few of the names, but all that I can now remember have been made parties defendant to this cause. No transfers of stock were made to my knowledge since March, 1865; not having the books to refer to, can't say positively.

6th. I know nothing further that will benefit the complainant in this cause.

Answer to cross-interrogatories of John A. Bradley to third direct interrogatory.

1st X. No business was done by the bank as a bank since March, 1865; they merely proceeded to wind up its business.

233 2nd X. No; they never did try to buy up its bills to protect the stockholders.

3rd X. The bank never did offer to buy any one of its bills at a discount or otherwise.

4th X. The bank never ceased to do business before the first of March, 1865, and it continued to operate until about the 1st of May, 1865.

Answer to fifth direct interrogatory.

1st X. I do not know that John M. White was a stockholder; he is dead; know nothing of his solvency or insolvency.

Answer to gen'l cross-interrogatories.

1st X. I think the bank was notoriously insolvent on after the first of March, 1865.

2nd X. The bank became notoriously insolvent about the first of March, 1865. The failure of the Southern Confederacy was the cause of the failure of the bank at that time.

JOHN A. BRADLEY, SR.

Sworn to and subscribed before me July 25th, 1877.

J. E. HAGOOD, *Com.*

The other two witnesses named in the order for examination,
234 to wit, C. C. McCoy and J. B. Cornwell, was not examined; C. C. McCoy was absent from the State, and J. B. Cornwell was not examined by the instructions of the complainant, as he lived in the country some distance from Chester.

J. E. HAGOOD, *Com.*

No. 78.

Additional testimony.

UNITED STATES OF AMERICA,
District of South Carolina, Fourth Circuit:

In circuit court. In equity.

HARVEY TERRY, COMPLAINANT,
vs.
THE BANK OF CHESTER, J. J. MCLURE, RECEIVER, et al., defendants.

A reference was called in this case on motion of Edward McCrady, esq., for defendants; reference met and was adjourned until Monday, the 22 inst., at the request of the complainant, who was absent in Washington in attendance upon the Supreme Court.

April 20, 1878.

235 April the 22, 1878, reference met according to adjournment—present, Harvey Terry, complainant, Edward McCrady and James Simons, jr., representing the defendants—when the following testimony was taken:

JOHN L. HARRIS, being sworn, says in answer to direct examination by Mr. McCrady:

Q. Was you an officer of the Bank of Chester in 1860?

A. I was the teller in 1860.

Q. Did the bank suspend specie payment during the time you was teller? If so, when?

A. I do not recollect of the bank paying out any specie after the act of the legislature legalizing the suspension of the banks.

Q. Did you receive any instructions from any of its officers to suspend specie payment previous to that time?

A. The board of directors notified me before the act of suspension had passed, that in case of any large demands were made on the bank for specie, to plead the resolution of the board suspending specie payments.

Q. You had actually suspended when the act was passed?

236 A. We had.

Q. Do you know of any meeting of the officers of the banks of the State?

A. I do not recollect anything of it.

Cross-examination by HARVEY TERRY, compl't's sol.:

Q. Was you the teller of the bank in 1860?

A. I was.

Q. Did you occupy that position until the close of the bank?

A. I occupied that position until October or November, 1865.

Q. Did your bank continue a general business from 1860 to early part f 1865?

A. It did.

Q. For what purpose did your bank keep open early in 1865 until the ate you left?

A. For receiving any debts due the bank.

Q. How long did your bank continue to collect its debts?

A. As long as I remained with the bank, in October, 1865, or November, 1865.

Q. To whom did you turn over the assets of the bank?

A. To John J. McLure, the president pro tem. of the bank.

Q. Was he a stockholder and director?

A. He was; and elected by the board of directors.

237 Q. After the suspension of the banks in November, 1860, did your bank continue to do business, and to declare dividends to its stockholders?

A. It did; it continued to do business in Confederate currency, and paid dividends in Confederate currency.

Q. Were those dividends declared from the capital and assets of the bank?

A. I think they were declared from the profits of the bank altogether.

Q. Was any part of the capital of your bank invested in Confederate money?

A. There was; the bank held a million of dollars in Confederate bonds and currency.

Q. Were these bonds and currency used as the working capital of the bank?

A. They were.

Q. Was your business after November, 1860, conducted with the knowledge and consent of the stockholders of the bank, and did they apply for and receive the dividends of the bank declared in Confederate money?

(Mr. McCrady objects to the question upon the ground that he must bring home notice to the stockholders individually.)

238 A. I do not know. Some dividends were not paid.

Q. Did you declare dividends to all the stockholders alike?
A. Am not aware of any difference.
Q. At what date did you declare dividends?
A. I think in April & October of each year.
Q. Up to what date did you declare dividends?
A. I don't recollect; have not had access to the books for a long time.
Q. Did your bank make a general report to the comptroller gen'l of the State?
A. I don't know.

Redirect examination of Mr. McCRADY:

Q. Mr. Harris, you said you had turned over the assets of the bank to Mr. McLure in 1865?
A. Yes.
Q. During the time from 1860 to 1865, in what currency did the bank deal exclusively?
A. We dealt in 1860 in the bills of the bank of the State and other banks, and from the time Confederate currency was issued we dealt exclusively in Confederate currency.
Q. Was not all the transactions of the bank, including the pay-
239 ment of dividends, paid exclusively in Confederate currency after the issue of Confederate currency?
A. It was.
Q. When was Confederate money issued?
A. I think in July, 1861.

Cross-examination by Mr. TERRY:

Q. At what date did your bank receive the first Confederate money?
A. Cannot fix the date. It was subsequent to 1860.

J. L. HARRIS.

Sworn to before me Ap'l 22, 1878.

J. E. HAGOOD,
Special Master.

HARVEY TERRY, being sworn, says:

Direct examination by Mr. McCRADY:

Q. When did you buy the bills of the Bank of Chester?
A. At various times from 1859 to 1868.
Q. What amount have you proved in this case?
A. None.
Q. How many did you prove before the receiver?
A. Can't recollect the amount.
Q. Have you been paid a dividend by the receiver in the State court?
240 A. I have, but can't recollect the amount; several thousand dollars.
Q. What per cent.?
A. The bills I delivered to the receiver was paid at par.
Q. Have you proved any other bills before him?
A. He paid me at par for the bills I delivered to him. I held other bills, but did not receive any dividends on them.
Q. Do you recollect how many bills you had before the war?
A. I can't recollect.
Q. Can you swear that you had any bills of the Bank of Chester before the war?

A. I had, to the best of my recollection.

Q. Can you swear that the bills you proved before the receiver was the bills you had before the war?

A. A part of the bills which I had and made up in my estimate for the receiver was a part of the bills I had before the war.

Q. What part?

A. Can't say; have no memorandum.

Q. Where did you reside during the war?

A. Resided at Milwaukee up to the commencement of the war.

241 After the war commenced, I resided in Tennessee and Alabama.

Q. Were you within the Confederate lines during the war?

A. I was a part of the time; not all the time.

Q. Were you in the Confederate lines except when the United States troops had possession?

A. I was part of the time; came into the Confederacy and went out; was back & forward across the lines. Not in South Carolina, however.

Q. Can't you recollect how many bills of the Bank of Chester you held at that time?

A. I cannot; that is an utter impossibility.

Q. What did you give for these bills?

A. From par down to thirty cents.

Q. Can't tell us anything more how you got these bills than that?

A. I took them in the course of business.

Q. Did you take them in currency, and when and where?

A. I did take a part of them in currency, in Newbern, North Carolina; think in 1864.

Q. What did you pay for those bills you took in currency?

A. I traded other currency for them.

242 Q. At par, premium, or what currency?

A. Can't recollect.

HARVEY TERRY.

Sworn to and subscribed before me this the 22d day of April, 1878.

J. E. HAGOOD,
Special Master.

And on the 1st day of May, A. D. 1878, came into court the complainant, Harvey Terry, per se, and filed the following petition to amend bill, which petition is in the words and tenor following:

No. 79.

Petition.

In the United States circuit court for the dist. of S. C. In equity.

HARVEY TERRY
vs.
BANK OF CHESTER, JOHN J. MCLURE, REC'V'R, et. al., defendants.

Prayer for amendment.

And now comes the complainant and prays leave of this honorable court to amend his bill in this cause, to wit:

1st. To add the names of all persons as defendants to said bill, the

names of persons who have been the holders of the stock of said
243 bank since November 29th, 1869, and who have received the capital assets and trust fund of said bank after its failure, and now hold the same as trustees for the benefit of the creditors of said bank, as shown by testimony taken and filed in said cause since the adjournment of this court at its last term.

2nd. To strike out on page of the bill the paragraph, "That on the 1st day of March, A. D. 1865, and indeed at an earlier date, the said bank failed, being then indebted to an amount far exceeding its assets—and in consequence of such failure, &c., &c., &c.;" and to insert in lieu thereof, to wit:

That on the 29th day of November, 1860, said Bank of Chester suspended the payment of its bank bills issued as money, and suspended the payment of its debts in specie, failed and became bankrupt, and never thereafter resumed the payment of its circulating bank notes, according to the terms of its charter; and in consequence of said failure, in accordance with the provisions of said act of charter, the stockholders, co-partnerships and bodies politic holding shares in said bank at
244 that date, or who had been interested therein within 12 months previous thereto, became liable for the debts of said bank for a sum of money not exceeding twice of the amount of the shares so held by them respectively.

That said Bank of Chester at the date of its failure had a capital full paid of $300,000 and assets exceeding one million dollars, consisting of specie, drafts, exchange, bills receivable, and other property in its possession & under its control at that date; and notwithstanding the failure of said bank, both said corporation and its stockholders positively denied said failure, and by usurpation of said franchise, and in fraud of the rights of its creditors and this plaintiff, it continued to receive deposits, discount notes & drafts, sue, exchange, collect its debts, and to parcel out to its stockholders and divide up the assets of said bank, from time to time, and appropriate the capital and assets of said bank to the use and benefit of its stockholders in fraud of its creditors, without the payment of its circulating bills and notes, issued as money and held by this plaintiff and other creditors, and so continued to use the said fran-
245 chise of charter as a usurpation of the trust and a convertion of the trust property from the uses to which it is dedicated by law at the date of said failure, and so continued until Jan'y, 1870, when a receiver was appointed by the State court to take charge of the assets of said bank. And the stockholders of said bank and other persons who bought its shares aided and assisted in the usurpation and fraudulent exercise of said franchise, after said failure, and participated in its proceedings, received, used and converted to their own use parts and parcels of the capital, assets and trust fund of said bank, which legally belonged to the creditors of said bank, and said stockholders and persons herein charged are now the holders of said trust fund as trustees for the creditors of said bank.

That the holders of the bank bills of said Bank of Chester, by force of the statute of charter, have a vested right of contract in said charter and in said bank bills, so issued under said charter, and the stockholders of said bank are thereby bound by the
246 statute for the payment of the debts of said bank at its failure, and were bound in law to pay the creditors of said bank out of the fund that existed in their hands at the date of said failure; but said stockholders, in fraud of the rights of this complainant and other creditors, concealed the fact of the failure of said bank, and

continued, by their officers and agents, and by their own assistance and authority, to use, dispose of, apply, and disburse said trust fund to their own use and possession, and have continued to use and possess said fund as a continuing trust until 1870; and in defiance of the laws of equity and good conscience have divided up amongst themselves and appropriated to their own use and benefit the whole of the capital stock and assets of said bank in violation of said original statute of charter, and in violation of the rights of this plaintiff and other creditors vested under it, which said fraud was not discovered until disclosed by the testimony taken in this action.

That the capital stock and assets of said bank, at the date of
247 its failure, was a trust fund specially appropriated by law for the payment of its debts at that date, and the distribution of the assets of said bank amongst the members of the corporation after its failure, and before the payment of its debts, was a great fraud and violation of the charter, and a great wrong committed against the rights of the creditors of said bank holding its bills issued and circulated under the statute as money; and every dollar of said capital stock and trust fund so divided out amongst said stockholders and others was a violation of the Constitution of the United States and a violation of the principles of contract as enacted in the charter, and should be held to be a trust in the hands of all persons receiving the same "as held by them" for the use and benefit of the holders of the bills and creditors of said bank, and each and every person receiving the assets and trust fund of said bank after its failure should fully account and full and complete restitution make of the trust fund so appropriated, converted and received by all persons liable for the debts of said bank, so
248 receiving, using, or appropriating the same to any use except to pay the debts of the bank due at its failure; and every person so securing, managing, or disposing of the said trust fund as principals thereof should be held as original trustees holding said assets of said bank so received by them as held for the benefit of their creditors, to whom said fund justly belongs.

That stay laws of the State staying the process of the courts for actions at law and collections of debts, existed in South Carolina from the date of the failure of said bank until July, 1868, as shown under the rulings of the supreme court of the State (15 Richardson, 231, Harley & Pressley vs. Ward), and under the military orders No. 10 and No. 164 (14 Statutes at Large, pages 7 & 160), and therefore the special aid of a court of equity and the law of conscience is involved to protect and declare the plaintiff's rights of action against the holders of the trust fund and capital of said bank so divided out and held by the said defendants, because said holders of said fund were protected from process of suit by said stays.

249 That the capital stock of said bank was divided into shares each of the value of twenty-five dollars, and the following parties were the holders of shares within twelve month' previous to said failure, or held shares after said failure of the respective amounts set opposite to their names, and said stockholders and other persons received and appropriated to their own use and each now holds a proportionate part of said trust fund, to wit, &c., &c.

HARVEY TERRY,
Petitioner.

And on the 1st day of May, A. D. 1878, came into court the complainant, Harvey Terry, per se, and filed the following affidavit to amend bill, which affidavit is in the words and tenor following:

No. 80.

Affidavit.

UNITED STATES OF AMERICA,
District of South Carolina:

In the U. S. circuit court, district of S. Carolina. In equity.

HARVEY TERRY
vs.
250 BANK OF CHESTER, J. J. MCLURE, RE-
C'V'R, et al., defendants.

Affidavit to support amendment

Harvey Terry, being duly sworn, deposes and says:
That since filing his amendment in this cause, by the evidence taken in this cause he has discovered facts material to this action that makes it imperative on him to amend his bill in said cause in order to show to the court the actual date of the failure of said bank and other facts necessary to prove his case before this court, and therefore he prays leave to amend, and that the same is not made for delay, and that the petition is true.

HARVEY TERRY,
Complainant.

Sworn to and subscribed before me, May 1, 1878.
J. E. HAGOOD,
C. C. C. U. S. Dist. S. C.

And on the 1st day of May, A. D. 1878, came into court the complainant, Harvey Terry, per se, and filed the following motion to
251 amend bill, which motion is in the words and tenor following:

No. 81.

Motion.

UNITED STATES OF AMERICA,
District of South Carolina:

In the U. S. cir. court. In equity.

HARVEY TERRY
vs.
THE BANK OF CHESTER, JOHN J. MCLURE,
receiver, et al., defendants.

Motion to amend bill.

The complainant, by leave of this court, having filed his petition for leave to amend his said bill in this action, with affidavit of the materiality of said amendments proposed, and that the same is not made for the purposes of delay:
The complainant hereby sets down his motion for the hearing of said petition, and the allowance of the amendments to be filed to said bill as

proposed, the same to be heard on the 9th day of May, at 10
252 o'clock a. m., or so soon thereafter as the same can be heard by the court.

HARVEY TERRY,
Complainant.

To JAS. H. RION, SIMONS & SIMONS,
Def'ts Att'ys.

And on the 6th day of May, A. D. 1878, came into court the complainant, Harvey Terry, per se, and filed the following amended bill, which amended bill is in the words and tenor following:

No. 82.

Amended bill.

UNITED STATES OF AMERICA,
District of South Carolina:

In the U. S. circuit court. In equity.

HARVEY TERRY
vs.
J. J. MCLURE, RECEIVER OF BANK OF CHESTER, et al., defendants.

Amendment to the amended bill filed in this cause May 14th, 1875.

Humbly complaining showeth unto your honors your orator, Harvey Terry, a citizen of the State of Virginia, in behalf of himself and all
253 others the creditors of the Bank of Chester, S. C., and of the stockholders and persons holders of the trust fund of said bank who shall come and seek relief by, and contribute to the expenses of, this suit against Wm. Caldwell, Jno. J. McLure, S. W. Mobley, James Hemphill, A. Baxter Springs, Robert N. Hemphill, Sam. McAlliley, Dr. A. P. Wiley, Jas. Hemphill, surviving ex'r of Mrs. Jane Hemphill; Adam Walker, ex'r of Jas. Walker, dec'd; C. C. McCoy, adm'r of N. R. Eaves; J. L. Harris, trustee for M. & E. Harris; Lavinia Steele, Mrs. C. Z. Mills, E. C. McLure, trustee for Mrs. P. A. Pride; J. L. Adams, ex'r of J. H. Adams, d c'd; Nicholas Colvin, W. A. Clark, ex'r of C. D. Melton, dec'd; R. S. Hope; R. N. Hemphill, adm'r of Jas. M. Brawley; Harriet E. Henry, Jas. C. Pedan, Mrs. C. L. McGowan, John Aiken, jr., Alex. & Robert Walker, adm'rs of Adam Walker, dec'd; Wm. R. Walker, Margaret Moffitt, R. W. Price, Jno. G. Steele, ex'r of Jno. Steele, dec'd; Mrs. Julia Henry, P. K. Egleston, Jno. Bryce, L. C. McDonald, Erskine Theological Seminary, J. N. Young, treas.; W. B. Williams, adm'r of A. Stillwell, dec'd; W. T. Robinson, John B. Cornwell, adm'r for J. Bennett,
254 dec'd; Rudolph Brandt, surviving partner of Bennett Wilson & Co.; E. M. Kirkpatrick; W. A. Pedan, adm'r of Jno. R. Bingham; A. B. Davidson; C. C. McCoy, adm'r of Jno. Poag; R. B. Caldwell, adm'r of C. Caldwell; Jno. Adams; Susan J. Springs, as ex'x of R. A. Springs, dec'd; Jno. N. McLure, sr.; E. N. Springs; R. C. Springs & Jno. S. Bratton, R. S. Hope, adm'rs of Sam. Rainey, dec'd; B. B. Greer, ex'x of R. S. Greer, dec'd; J. M. McDaniel, adm'r of Wm. Knox; A. S. Johnston, trustee; B. J. Witherspoon, adm'r of Jas. H. Witherspoon; Jno. Cairnes; Jno. L. Harris, ex'r of Wm. H. McLure; L. S. White,

adm'r of Jos. F. White; Mrs. P. B. Gaston, ex'x of J. B. Gaston; Jno. M. White, ex'r of W. E. White, dec'd; Elizabeth McCandless; Wm. McCandless; B. McLure; W. E. Adams; Robert Mills, adm'r of Jas. Y. Mills; Mrs. Emily E. Wright, ex'x of J. Leslie Wright; Mrs. Ann E. Wright, ex'x of Sam. Wright; A. S. J. Perry, trustee for Mrs. Perry; Phineas Pierce; E. C. Mowry; M. C. Wysong; J. L. Adams; Wm. Stringfellow, adm'r of Philip Walker, dec'd; Sam. P. Alexander; Emery Thayer; Carver Randall; Jas. S. Gibbes; N. M. Porter; Jno.
255 M. Brown and A. M. Birwell, adm'rs of P. N. Brown; Dr. M. M. Orr; S. Y. Tupper, as adm'r of Josiah Bedan; S. Laura Lance, surviving ex'x of Mrs. Mary Potts; Giles J. Patterson, personally, & G. J. Patterson, as adm'r of J. C. Lifford, dec'd; W. H. Crosly, as ex'r of B. F. Arthur, who was ex'r of Jas. H. Dogan, dec'd; T. J. Cureton, as adm'r for W. T. Gilmore; Jos. J. White; Mrs. P. A. Pride; Wm. Munro, as adm'r of W. J. Kenan, trust. Rev'd H. Quigg; Mrs. Caroline Goudelock, ex'x of D. Goudelock; T. H. Croft, as ex'x of Geo. S. Cameron; Dr. David Lyle, as adm'r of W. H. Gill, dec'd; Agnes C. Bryce, now Agnes C. Mitchell, adm'r for Jno. Bryce, dec'd; J. Harvey Smith; W. T. Robinson; Jas. W. Keee; , adm'r of Lavinia Steele, , holders of the trust fund of the Bank of Chester, and stockholders of said bank, citizens of the State of S. Carolina, with leave to add the names of all other persons and their legal representatives who are holders of the trust fund of said bank as defendants hereto, and says:

That by an act of the general assembly of the State of S. Carolina entitled "An act to incorporate the Planters' and Mechanics'
256 Bank of S. Carolina," ratified on the twentieth day of December, A. D. 1810, the several persons in said act named, their successors & associates, were incorporated under the name of the "Planters' and Mechanics' Bank of South Carolina," with certain powers and privileges, as in and by the said act, reference thereunto being had, will more fully appear; and the said charter was renewed with a continuance of all privileges then enjoyed under the original charter as aforesaid by act of the general assembly of the said State, entitled "An act to renew the charter of the Planters' and Mechanics' Bank and of the Union Bank of South Carolina," ratified on the eighteenth day of December, A. D. 1830, for the term of twenty-one years from the day on which the original charter of the said bank would have expired; and the said charter was again renewed with a continuance of all privileges enjoyed under the original charter as aforesaid by act of the general assembly of the said State, entitled "An act to recharter the Planters' and Mechanics' Bank of South Carolina, the Union Bank of
257 South Carolina, the Commercial Bank of Columbia, S. C., and to incorporate the Exchange Bank of Columbia, the Farmers' and Exchange Bank, and the Peoples' Bank of Charleston, the Bank of Newberry, the Bank of Chester, the Bank of Sumterville, the Planters' Bank of Fairfield, and the Western Bank of South Carolina, at Anderson," ratified on the sixteenth day of Dec., A. D. 1852, for twenty-one years from the first day of January, A. D. 1853.

That by the last-mentioned act the aforesaid Bank of Chester, S. C., was incorporated with all the powers and privileges of the said Planters, and Mechanics' Bank of South Carolina, as in and by the said act reference thereunto being had will more fully appear, and that by the said act the said Bank of Chester, South Carolina, was incorporated for the period of twenty-one years from the first day of January, A. D. 1853.

That in and by the said acts the said bank was duly organized and

became vested with all the rights, privileges, and powers therein granted, and, among others, the right to issue bills and notes as
258 a circulating medium, and payable by the said bank in coin on demand; to receive and hold moneys on deposit; to make loans and deal in exchange, foreign and domestic; and to transact generally such operations and business as legitimately belongs to a banking institution; and in and by the said acts it was also provided that the said bank should be liable to such regulations as the general assembly should at any time impose; as in and by the said acts incorporating the said bank upon reference thereunto will more fully appear.

And your orator further sheweth unto your honors, that from the date of the said incorporation, the said bank has, until within a short period anterior to the filing of the bill, used and enjoyed the powers and privileges conferred by the said act, and engaged in the business of banking, with a capital of three hundred thousand dollars, divided into shares of twenty-five dollars each, and has issued its bills and notes to a large amount, and has made contracts, and become indebted
259 to this plaintiff and divers persons in large sums of money.

And your orator further sheweth unto your honors that in and by the aforesaid act of the general assembly of the State of South Carolina, it is provided that in case of the failure of the said bank, each stockholder, co-partnership or body politic, having a share or shares in the said bank at the time of such failure, or who shall have been interested therein at any time within twelve months previous to such failure, shall be liable and held bound individually for any sum not exceeding twice the amount of his, or her, or their share or shares.

That on the 29th day of Nov., 1860, said Bank of Chester suspended the payment of its debts in specie, failed, and became bankrupt, and never thereafter resumed the payments of its circulating bank notes, according to the terms of its charter, and in consequence of said failure, in accordance with the provisions of said act of charter, the stockholders, copartnerships and bodies politic, holding shares in said bank at
260 that date, or who had been interested therein within twelve months previous thereto, became liable for the debts of said bank for a sum of money not exceeding twice the amount of the shares so held by them respectively.

The said Bank of Chester at the date of its failure had a full paid capital of $300,000, and assets exceeding $700,000 beyond that sum, consisting of specie, drafts, exchange, bills receivable, and other property in its possession and under its control at that date; and notwithstanding the failure of said bank, both said corporation and its stockholders positively denied said failure, and by usurpation of said franchise, and in fraud of the rights of its creditors and this plaintiff, it continued to receive deposits, discount notes, sell exchange, collect its debts, and to parcel out to its stockholders, and divide up the assets of said bank, and appropriate the capital and assets of said bank (which at that date was a trust fund, belonging to the creditors of said bank and this plaintiff) to the use and benefit of its stockholders, in fraud of its creditors and this plaintiff, without the payment of its circu-
261 lating bills and notes issued as money, and held by this plaintiff and other creditors; and so continued to use said franchise of charter, as a usurpation of the trust, and a convertion of the trust property from the uses to which it is dedicated by law, at the date of said failure, and so continued to do until the present date, or until a receiver was appointed by the State court to take charge of the assets of said bank if any existed.

And the stockholders of said bank and other persons who bought its shares, aided and assisted in the usurpation and fraudulent exercise of said franchise after said failure, and participated in its proceedings, demanded, received, used, and converted to their own use parts and parcels of the capital, assets and trust fund of said bank that legally belonged to the creditors of said bank; and said stockholders and persons herein charged are now the holders of said trust fund, as trustees for the creditors of said bank.

That the holders of the bills of the said Bank of Chester, by force of the statute of charter, have a vested right of contract
262 in said charter, and in said bank bills so issued under said charter; and by force of said statute the stockholders of said bank are thereby bound for the due application of said trust fund to the payment of the debts of said bank at its failure, and were bound in law to pay the creditors of said bank out of the trust fund that existed in their hands at the date of said failure; but said stockholders, in fraud of the rights of this complainant and other creditors, concealed the fact of the failure of said bank, and continued by their officers and agents, and by their own assistance, acts and authority, to use, dispose of, apply and disburse said trust fund to their own use and possession; and have continued to use and possess said fund as a continuing trust, until the present date; and in defiance of the laws and of equity and good conscience, have retained to themselves and appropriated to their own use and benefit the whole of the capital stock and assets of said bank,
263 in violation of the rights of this plaintiff and other creditors vested under said statute, which said fraud was not discovered by the plaintiff in this action until disclosed by the testimony taken in this cause.

That the capital stock and assets of said bank at the date of its failure, was a trust fund, specially appropriated by law for the payment of its debts existing at that date; and a distribution of said assets amonst the members of said corporation after its failure, and before the payment of its debts, was a great fraud and violation of the charter committed against the rights of the creditors of said bank holding its bills issued and circulated under the statute, and vested and held as money under said statute; and every dollar of said capital stock and trust fund so divided out among said stockholders and other defendants was a violation of the act of charter, a violation of the constitution of South Carolina, and a violation of the Constitution of the United States, and of the principles of contract as enacted in said charter; and said contract of charter and the fund held thereunder, should be deemed
264 a trust in the hands of all persons receiving the same, "as held by them" for the use and benefit of the holders of the bills and creditors of said bank.

And each and every defendant receiving the assets and trust fund of said bank after said failure, should fully account, and full and complete restitution make of the trust fund so appropriated, converted, and received by all persons, defendants hereto, liable for the debts of said bank, so receiving, using, or appropriating said fund to any use, except to pay the debts of said bank due at its failure; and every person so receiving, managing, or disposing of said trust fund as principals thereto should be held liable as original trustees, holding said assets of said bank, as held for the benefit of their creditors to whom said trust fund justly belongs.

That by an act of the general assembly of South Carolina, entitled "An act to enable the banks of the State to resume business, or to

place them in liquidation," approved Mar. 13th, A. D. 1869, it
265 was provided in words as follows, that is to say: "That all banks incorporated by the authority of this State, and which have by said authority issued bills of credit, known as bank bills, and have failed to comply with said corporated privileges, by refusing to pay their bills of credit, and are now thus failing to comply with the provisions of said act of incorporation, in this particular, and shall so continue to violate said act, until the first day of Dec., A. D. 1869, shall forfeit all corporate rights and privileges; and are forbidden to transact any business as banking institutions, and in the second section of the last-mentioned act it is provided that the judge of the circuit in which such bank or banks may be situated, upon notification made to him of each and every bank failing to comply with the requirements of the first section of the same act aforesaid, shall appoint a suitable person as receiver of the property and assets of each of the aforesaid banks, who shall, after having filed a bond with good security, to be approved by the said judge, take charge of the property & assets of the bank.

266 That the said Bank of Chester, previous to the first day of Dec., A. D. 1869, failed to pay their bills of credit, known as bank bills, and so failed to pay their bills up to the first day of Dec., A. D. 1869, and that subsequently on the day of , in accordance with the provisions of said act last mentioned, on the application of W. H. Brawley, solicitor of the sixth circuit of said State, John J. McLure, was, by an order made by the Hon. Wm. M. Thomas, circuit judge, duly appointed receiver of the property and assets of said bank, and thereafter, and before the commencement of this action, he gave his bond as required by said order, as such receiver, and took charge of the assets of said bank. That on the eighth day of Jan'y, A. D. 1870, on motion of said W. H. Brawley, solicitor, it was ordered by the said Wm. M. Thomas, circuit judge of the said sixth circuit, that all creditors and bill-holders of the said bank be enjoined from proceeding at law against the said bank.

That *it* the said bills of credit or promissory notes of said bank,
267 payable on demand to bearer, and constituting a portion of the circulating medium intended to be furnished by the said bank, in accordance with its charter, a large amount in the regular course of trade, and for valuable consideration, came to your orator, to wit, the amount of $28,020, which said bills are the property of your orator, and partly set forth, as to dates and amounts, in a schedule hereunto annexed (Exhibit A), and prayed to be taken as a part of this bill, and now in the hands of the solicitor of your orator, and ready to be produced when required, in virtue whereof your orator is entitled to have of the assets of the bank, payment of his bills in full, as well of the principal as of interest; and if the said assets are not sufficient, then the proportion to which, on a division of the same to all bill-holders and creditors, your orator may be entitled, "but no accounting by said receiver is demanded in this action, because no assets of said bank exist in his hands wherewith to pay any material part of said debts, and said bill is hereby dismissed as to said receiver," and in virtue whereof,
268 your orator is entitled to the payment of his debts out of the property of all persons who were stockholders of the said bank. or were interested therein, at any time within twelve months previous to said failure; and others who are the holders of the trust fund of said bank, divided up and distributed since the date of its failure.

That stay laws of the State staying the process of the courts for actions at law and the collection of debts from debtors existed in South

Carolina from the date of the failure of said bank until July, 1868, as shown under the rulings of the supreme court of the State (15 Richardson, 231, Harley & Pressley vs. Ward), and under the military orders No. 10 & No. 164 (14 Statutes at Larges, 87 & 160), and therefore the special aid of a court of equity and the law of conscience is involved to protect and declare the plaintiff's right of action against the holders of the trust fund and capital of said bank so divided up and held by said defendants.

That the capital stock of said bank was divided into shares,
269 each of the value of twenty-five dollars, and the following defendants were the holders of shares after said failure, of the amounts placed opposite to their names; and each received and appropriated to their own use, and each defendant now holds, a proportionate part of said trust fund, to wit:

That William Caldwell holds 500 shares, worth $12,500; Thomas H. Croft, as ex'r of Geo. S. Cameron, dec'd, holds 800 shares, worth $20,000; Jas. Hemphill, as surviving executor of Mrs. Jane Hemphill, holds 400 shares, worth $10,000; that Jno. J. McLure holds 400 shares, worth $10,000; R. B. Caldwell, adm'r for Cornelius Caldwell, holds 500 shares, worth $12,500; S. W. Mobley holds 400 shares, worth $10,000; Dr. David Lyles, adm'r of W. H. Gill, holds 80 shares, worth $2,000; A. Baxter Springs holds 300 shares, worth $7,500; Robert N. Hemphill holds 400 shares, worth $10,000; Robert M. Hemphill, adm'r of Jas. M. Brawley, dec'd, holds 400 shares, worth $10,000; Sam. McAllily holds 400 shares, worth $10,000; Dr. A. P. Wiley holds 280 shares, worth $7,000;
Adam Walker, ex'r of Jas. Walker, dec'd, holds 300 shares, $7,500;
270 C. C. McCoy, adm'r of N. R. Eaves, holds 50 shares, worth $1,250;
C. C. McCoy, adm'r of Jno. Poag, dec'd, holds 50 shares, worth $1,250; J. S. Harris, as trustee for M. & E. Harris, holds 160 shares, worth $4,000; , as adm'r of Lavinia Steele, dec'd, holds 5,000 shares, worth $12,500; Mrs. C. Z. Mills holds 400 shares, worth $10,000; E. C. McLure, trustee for Mrs. P. A. Pride, holds 200 shares, worth $5,000; J. L. Adams, ex'r of J. H. Adams, holds 400 shares, worth $10,000; Nicholas Colvin holds 60 shares, worth $1,500; W. A. Clark, ex'r of C. D. Melton dec'd, holds 500 shares, worth $12,500; R. S. Hope holds 200 shares, worth $5,000; Harriet E. Henry holds 100 shares, worth $2,500; Jas. C. Pedan holds 150 shares, worth $3,750; Mrs. C. L. McGowan holds 200 shares, worth $5,000; Jno. Aiken, jr., holds 50 shares, worth $1,250; Alex. & Robert Walker, adm'rs of A. Walker, hold 100 shares, worth $2,500; W. A. Walker holds 200 shares, worth $500; Margaret Moffett holds 100 shares, worth $2,500; , as adm'r of R. W. Bryce, dec'd, holds
100 shares, worth $2,500; Jno. G. Steele as ex'r of Jno. Steele, dec'd, holds 200 shares, worth $5,000; Mrs. Julia Henry holds 100 shares,
271 worth 2,500; P. K. Egleston holds 100 shares, worth $2,500; Jno. Bryce holds 200 shares, worth $5,000; L. C. McDonald holds 100 shares, worth $2,500; the Erskine Theological Seminary, Jno. N. Young, treas., holds 200 shares, worth $5,000; W. B. Williams, adm'r of A. Stillwell, dec'd, holds 400 shares, worth $10,000; W. T. Robinson holds 100 shares, worth $2,500; Jno. B. Cornwell, adm'r for Jordan Bennett, dec'd, holds 100 shares, worth $2,500; Rudolph Brandt, surviving partner of Bennett, Wilson & Co., holds 100 shares, worth $2,500; E. M. Kirkpatrick holds 400 shares, worth $10,000; W. A. Pedan, adm'r Jno. F. Bingham, holds 100 shares, worth $2,500; A. B. Davidson holds 500 shares, worth $12,500; Jno. Adams holds 200 shares, worth $5,000; Susan J. Springs, as ex'x of R. A. Springs, dec'd, holds 500 shares, worth $12,500; Jno. N. McLure, sr., hold 200 shares, worth $5,000; E. N.

Springs holds 200 shares, worth $5,000; R. C. Springs holds 600 shares, worth $15,000; Jno. S. Bratton & R. S. Hope, adm'rs of Sam. Rainey, holds 150 shares, worth $3,750; Barbara B. Greer, ex'x of R. S. Greer, holds 100 shares, worth $2,500; J. M. McDaniel, as adm'r of W.
272 Knox, holds 150 shares, worth $3,750; A. S. Johnston, trustee, holds 400 shares, worth $10,000; B. J. Witherspoon, adm'r of Jas. H. Witherspoon, holds 8 shares, worth $200; Jno. Cairns holds 100 shares, worth $2,500; Jno. S. Harris, ex'r of W. H. McLure, holds 155 shares, worth $3,875; L. S. White, adm'r of Jos. F. White, holds 40 shares, worth $1,000; Mrs. P. B. Gaston, ex'x of J. B. Gaston, dec'd, holds 150 shares, worth $3,750; J. M. White, as ex'r of W. E. White, holds 150 shares, worth $3,750; Elizabeth McCandless holds 200 shares, worth 5,000; Wm. McCandless holds 240 shares, worth $6,000; B. McLure holds 100 shares, worth $2,500; W. E. Adams holds 240 shares, worth $6,000; Robert Mills, adm'r of Jas. Y. Mills, holds 240 shares, worth $6,000; Mrs. Emily E. Wright, ex'x of J. L. Wright, holds 400 shares, worth $10,000; Mrs. Ann E. Wright, ex'x of Sam. Wright, holds 400 shares, worth $10,000; A. S. J. Perry, trustee for Mrs. Martha Perry, holds 400 shares, worth $10,000; Phineas Pierce holds 400 shares, worth $10,000; E. C. Maury holds 100 shares, worth $2,500; M. C. Wysong holds 100 shares worth $2,500; J. L. Adams holds 240 shares, worth $6,000; Wm. String-
273 fellow, adm'r of Philip Walker, dec'd, holds 400 shares, worth $10,000; Sam. P. Alexander holds 100 shares, worth $2,500; Emery Thayer holds 150 shares, worth $3,750; Carver Randall holds 100 shares, worth $2,500; Jas. S. Gibbes holds 200 shares, worth $5,000; N. M. Porter holds 50 shares, worth $1,250; Jno. M Brown and A. M. Biswell, adm'rs of P. M. Brown, dec'd, hold 60 shares, worth 1,500; Dr. M. N. Orr holds 100 shares, worth $2,500; S. Y. Tupper holds 100 shares, worth $2,500; , as adm'r of Josiah Bedan, dec'd, holds 240 shares, worth $6,000; S. Laura Lance, as surviving ex'x of Mrs. Mary Potts, holds 60 shares, worth $1,500; Giles J. Patterson holds 600 shares, worth $15,000; G. J. Patterson, as adm'r of J. C. Lipford, dec'd, holds 80 shares, worth $2,000; W. H. Crosly, as ex'r of B. F. Arthur, who was ex'r of Jos. H. Dogan, holds 400 shares, worth $10,000; J. Harvey Smith holds 400 shares, worth $10,000; T. J. Cureton, as adm'r of W. T. Gilmore, holds 400 shares, worth $10,000; Jos. J. White holds shares, worth $; Mrs. P. A. Pride holds 200 shares, worth $5,000; Wm. Munro, as adm'r of W. J. Keenan, trust', dec'd, holds 200 shares, worth $5,000;
274 Rev'd Henry Quigg holds 40 shares, worth $1,000; Mrs. Caroline Goudelock, ex'x of D. Goudelock, holds 5 shares, worth $125; Agnes C. Brice, now Agnes C. Mitchell, adm'x of Jno. Brice, dec'd, holds 40 shares, worth $1,000; W. T. Robinson holds 60 shares, worth $1,500; Jas. W. Kee holds 300 shares, worth $7,500.

That each and all of the stockholders of said bank by purchase and ownership of shares assumed the responsibility of joint makers of the bank notes of said bank, and by the terms of said charter, the holders of shares therein at that date, or within twelve months previous to its failure, became the co-obligors, to pay the debts and notes of said bank to the bearer thereof outstanding at said failure.

That the capital and assets of said bank, at its failure, consisted of specie and assets of a specie value to the extent of $1,000,000, and the defendants, by the usurpation of said franchise, converted to their own use, and to the use of their co-defendants, all of said trust fund and capital of said bank that was duly pledged to the plaintiff and

275 other creditors for the payment of their debts, held at that date in violation of the contract contained in the statute, and in violation of the Constitution of the United States. The proportionate part of said trust fund proportioned to each share of stock is $83.33 per share, and by the fraudulent appropriation of any part of said trust fund, each stockholder appropriating, dividing up, and using said trust fund, and applying the same to their own use is liable, and should be held bound to pay to this plaintiff and other creditors the full sum of $83.33 upon each share of stock so held by them for the moneys thus appropriated, used, and now held by them respectively; that said stockholders, as trustees by their own acts, and the acts of their pretended officers and agents, continued to actively exercise said trust until Dec., 1870; and the fraudulent appropriation of the said trust fund, and dividing it out as dividends to its stockholders, was not discovered by the plaintiff in this action until those facts were disclosed by the evidence taken in the cause at a very recent date.

276 That for the reasons and facts aforesaid, your orator charges that he is entitled to a full discovery of all of the names of all persons who were stockholders at the date of said failure of said bank, and the names of all persons to whom said trust fund has been divided up, and paid or distributed as dividends from said bank, and the number of shares held by each and the sums of money that each defendant has received from said trust fund since the date of said failure, because of the refusal of said defendants to make payment of the trust fund and sums of money so held by them; and that your orator is entitled to a full discovery of the facts as charged and the sums of money so held by each defendant.

In tender consideration whereof, and forasmuch as your orator is remediless in the premises by the strict rules of the common law, and can only have adequate relief in a court of equity, where matters of this nature are properly cognizable and relievable:

To the end therefore that Thomas H. Croft, as ex'r of Geo. S.
277 Cameron, dec'd; A. Baxter Springs, Jno. J. McLure, S. W. Mobley, Robert N. Hemphill, Sam. McAliley, Dr. A. P. Wiley; James Hemphill, personally, and Jas. Hemphill, as surviving ex'r of Mrs. Jane Hemphill; Adam Walker, as ex'r of Jas. Walker, dec'd; C. C. McCoy, as adm'r of N. R. Eaves; C. C. McCoy, as adm'r of Jno. Poag; Jno. L. Harris, trust. for M. & E. Harris; William Caldwell, as adm'r of Lavinia Steele, dec'd; Mrs. C. Z. Mills; E. C. McLure, trustee; Mrs. P. A. Pride; J. L. Adams, ex'r of J. M. Adams; Nicholas Colvin; W. A. Clark, ex'r; C. D. Melton, Robert S. Hope; R. N. Hemphill, adm'r J. M. Brawley, dec'd; Harriet E. Henry; Jas C. Pedan, Mrs. C. L. McGowan, Jno. Aiken, jr.; Alex. & Robert Walker, adm'r of Adam Walker; W. A. Walker, Margaret Moffett, R. W. Brice; Jno. G. Steele, as ex'r of Jno. Steele, dec'd; Mrs. Julia Henry, T. K. Egleston, Jno. Bryce, L. C. McDonald; Erskine Theological Seminary, Jas. N. Young, treasurer; W. B. Williams, adm'r A. Stillwell, dec'd; W. T. Robinson; John B. Cornwell, adm'r of Jordan Bennett, dec'd; Rudolph Brandt, surviving partner of Bennett,
278 Wilson & Co.; E. M. Kirkpatrick; W. A. Pedan, adm'r of Jno. F. Bingham; A. B. Davidson; R. B. Caldwell, adm'r of Cornelius Caldwell; Jno. Adams; Susan J. Springs, ex'x of R. A. Springs; Jno. N. McLure, sr., E. N. Springs, R. C. Springs; Jno. S. Bratton & R. S. Hope, adm'rs of Sam. Rainey, dec'd; Barbara B. Greer, as ex'x of R. S. Greer, dec'd; J. M. McDaniel, adm'r of Wm. Knox; A. S. Johnston, trustee; B. J. Witherspoon, adm'r Jas. H. Witherspoon; Jno. Cairnes; Jno. L. Harris, ex'r of W. H. McLure, dec'd; L. S. White, as adm'r of

Jos. F. White, dec'd; Mrs. P. B. Gaston, as ex'x of J. B. Gaston, dec'd; J. M. White, as ex'x of Wm. E. White; Elizabeth McCandless, Jas. McCandless, B. McLure, W. E. Adams; Robert Mills, adm'r of Jas. Y. Mills, dec'd; Mrs. Emily E. Wright, ex'r of J. Leslie Wright; Mrs. Ann E. Wright, as ex'x of Sam. Wright; A. S. J. Perry, trustee for Mrs. Martha Perry; Phineas Pierce, E. C. Moury, M. C. Wysong, J. L. Adams; Wm. Stringfellow, adm'r of Philip Walker; Sam. P. Alexander, Emory Thayer, Carver Randall, Jas. S. Gibbes, N. M. Porter; Jno. M. Brown & A. M. Burwell, adm'r' of Peter N. Brown, dec'd; Dr. N. M. Orr,
279 S. Y. Tupper, , adm'r of Josiah Bedan, dec'd; S. Laura Lance, as surviving ex'x of Mary Potts; Giles J. Patterson: G. J. Patterson, as adm'r J. L. Lipford, dec'd; W. H. Crosley, as ex'r of B. F. Arthur, who was ex'r of Jos. H. Dogan, dec'd; T. J. Cureton, as adm'r of W. T. Gilmore; Jos. J. White, Mrs. P. A. Pride; Wm. Munro, as adm'r of W. A. Kenan, trustee, dec'd; Revd. Henry Quigg; Mrs. Caroline Goudelock, as ex'x of D. Goudelock, dec'd; Dr. David Lyles, adm'r of W. H. Gill; Agnes C. Brice, now Agnes C. Mitchell, adm'r for Jno. Brice, dec'd; J. Harvey Smith, Jas. W. Kee, directors, and stockholders and persons who are holders of the trust fund of said bank, and all others, when discovered, who are holders of the trust fund of said bank, may, if they can, show why your orator should not have a full and true account of their actings and doings as the holders of the trust fund of said bank; and why your orator should not have full and general relief hereby prayed; and that they may upon their several and respective oaths, and to the best of their knowledge, information
280 and belief, true, direct, and perfect answer make to the several interrogatories hereinafter mentioned and set forth, that is to say:

Whether the said bank was not chartered as aforesaid; whether it did not become organized, and act upon the liberties and franchises of said charter until its failure in Nov., 1860; whether it did not issue bills of credit, or promissory notes payable on demand to bearer, to a large amount; whether on the 29th day of Nov., 1860, the said bank did not suspend the payment of its debt in specie, and whether said bank did not so continue to refuse to pay specie for its bills, until the appointment of a receiver, as before stated; whether said bank did not continue to discount notes, receive deposits, sell, exchange, collect its debts, and pay out to its stockholders from time to time certain parts of the moneys, capital, assets, and trust-fund of said bank, and to make weekly reports to the comptroller-general of the State that said bank was in a solvent condition: and if the corporation and stockholders did not continue to use the franchise of said bank until January, 1870, when said re-
281 ceiver was appointed. State particularly the date at which sums of money, of the assets of the corporation, were paid be divided up to the stockholders as dividends, and the exact sum of money paid upon each share of stock held by said stockholders; whether the same was paid upon a separate demand, or whether it was paid upon a general resolution of a board of directors of the bank; append to your answer a schedule and list of all such dividends declared and payments made by said bank to its stockholders since Nov. 29th, 1860. State particularly whether the organization of the bank was maintained by the votes of the stockholders voting for the officers of the bank, and by said stockholders assisting in the affairs of the bank after Nov. 29th, 1860; and whether the officers and stockholders of said bank did not continue to hold, use, and appropriate the capital and funds of said bank after that date to the use & benefit of the stockholders until the appoint

ment of said receiver; whether said bank some time previous to the first day of Dec., A. D. 1869, had not failed to pay their bills of
282 credit; whether subsequently on the day of , Jno. J. McLure was not appointed by the Hon. Wm. M. Thomas, circuit judge of the sixth circuit of said State, receiver of the property and assets of said bank, and whether the said Jno. J. McLure did not, under said order, take charge of the assets of said bank as receiver aforesaid; whether on the 8th day of Jan'y, A. D. 1870, by an order of the said Wm. M. Thomas, circuit judge as aforesaid, the creditors and bill-holders of said bank were not enjoined from proceeding at law against the said bank; and that the said defendants respectively may each of them upon their respective oaths state whether the number of shares, as above alleged to have been held by each of said defendants, is not the correct number, and if not correct, then to state the exact number of shares held by each, and if the sum of $83.33 is the exact sum of money that each defendant, holding said shares, received upon each share of said stock so held, and if not the correct sum, then
283 to state the exact sum of money received by them of the trust fund and assets of said bank after Nov. 29th, 1860, and upon what account the trust fund of said bank was so received and applied.

And to make a list or schedule of names of all persons who were stockholders of the said bank at the date of its failure, or who have received a part of the trust fund and assets of said bank since Nov. 29th, 1860, as dividends to said stockholders. That an account may be taken by and under the directions of this honorable court of the claim of your orator, and all others (who have come in and shared in the expenses of this suit), of the debts due by the said bank and stockholders, now remaining unpaid, and that all and singular the bill-holders and creditors of said bank & stockholders may be summoned and notified by the order of this honorable court according to the course and of this court, to establish the debts due by the said bank and stockholders, as the holders of said trust funds, held for the use and benefit of the creditors of said
284 bank, to them now due, to the bill-holders and other creditors who may come in and contribute to the expense of this suit; and that this honorable court may grant a decree or decrees against each and every one of the holders of said trust funds of said bank and the stockholders thereof, or their legal representatives when discovered, in such form, and to such extent, as to this court may seem meet and proper: and that your orator may have such other and general relief as to this honorable court, on a full hearing, may equitably direct.

May it please your honors to grant unto your orator the most gracious writ of subpœna of the United States of America, to be directed to the said Thomas H. Croft, ex'r of Geo. S. Cameron, dec'd, A. B. Springs, Jno. J. McLure, S. W. Mobley, Robert N. Hemphill, Sam. McAliley, Dr. A. Wilie, Jas. Hemphill, and Jas. Hemphill, as surviving ex'r of Mrs. Jane Hemphill, Adam Walker, ex'r of Jas. Walker, dec'd, C. C. McCoy, adm'r of N. R. Eaves, C. C. McCoy, adm'r of Jno. Poag, Jno. L. Harris,
285 trustee for M. & E. Harris, as adm'r of Mrs. Lavinia Steele, Mrs. C. Z. Mills, E. C. McLure, trust. for Mrs. P. A. Pride, S. L. Adams, ex'r of J. H. Adams, Nicholas Colvin, W. A. Clarke, ex'r of C. D. Melton, dec'd, R. S. Hope, R. N. Hemphill, adm'r of J. N. Brawley, dec'd, Harriet E. Henry, Jos. C. Pedan, Mrs. C. L. McGowan, Jno. Aiken, jr., Alex. & Robert Walker, adm'rs of Adam Walker, W. A. Walker, Margaret Moffett, R. W. Brice, Jno. G. Steele, as ex'r of Jno. Steele, dec'd, Mrs. Julia Henry, T. K. Egleston, Jno. Brice, L. C. McDonald, Erskine Theological Seminary, Jos. N. Young, treasurer, W.

B. Williams, adm'r of A. Stillwell, dec'd, W. T. Robinson, J. B. Cornwell, adm'r of J. Bennett, dec'd, Rudolph Brandt, surviving partner of Bennett, Wilson & Co., E. M. Kirkpatrick, W. A. Pedan, adm'r of Jno. F. Bingham, A. B. Davidson, R. B. Caldwell, adm'r of C. Caldwell, Jno. Adams, Susan J. Springs, ex'x of R. A. Springs, Jno. M. McLure, sr., E. N. Springs, R. C. Springs, Jno. S. Bratton, & R. S. Hope, adm'r of Sam. Rainey, dec'd, B. B. Greer, as ex'x of R. S. Greer, J. M. McDaniel, adm'r of Wm. Knox, dec'd, A. S. Johnston, trust. B. J. Witherspoon, adm'r of Jas. H. Witherspoon, Jno. Cairnes, Jno. L. Harris, as ex'r of W. H. McLure, dec'd, L. S. White, as adm'r of Jos. F. White, dec'd, Mrs. P. B. Gaston, ex'x of J. B. Gaston, dec'd, Jno. M. White, ex'r of W. E. White, dec'd, Elizabeth McCandless, Wm. McCandless, B. McLure, W. E. Adams, R. Mills, adm'r of Jas. Y. Mills, Mrs. Emily E. Wright, ex'x of J. L. Wright, Mrs. Ann E. Wright, ex'x of Sam. Wright, A. S. J. Perry, trustee for Mrs. Martha Perry, Phineas Pierce, E. C. Moury, M. C. Wysong, J. L. Adams, Wm. Stringfellow, adm'r of Philip Walker, dec'd, Sam. P. Alexander, Emory Thayer, Carver Randall, Jas. S. Gibbes, N. M. Porter, Jno. M. Brown & N. M. Birwell, adm'rs of Peter N. Brown, dec'd, Dr. M. N. Orr, S. Y. Tupper, , adm'r of Josiah Bedan, dec'd, S. Laura Lance, surviving ex'x of Mary Potts, dec'd, Giles J. Patterson, Giles J. Patterson as adm'r of J. C. Lipford, W. H. Crosly, as adm'r of B. F. Arthur, who was ex'r of Jos. H. Dogan, dec'd, T. J. Cureton, as adm'r of W. T. Gilmore, Jos. J. White, Mrs. P. A. Pride, Wm. Munro, as adm'r or W. Kenan, dec'd, Revd. Henry Quigg, Mrs. Caroline Goudelock, as ex'x of D. Goudelock, dec'd, Dr. David Lyles, as
287 adm'r of W. H. Gill, Agnes C. Brice, now Agnes C. Mitchell, adm'x of Jno. Brice, dec'd, J. Harvey Smith, Jas. W. Kee, William Caldwell; thereby commanding them and every of them at a certain day, and under a certain pain therein to be specified, personally to be and appear before your honors, in this honorable court, and then and there to answer all and singular the premises, and to stand to, perform, and abide such order and decree therein as to your honors shall deem just & meet.

And your orator will ever pray.

HARVEY TERRY,
Complainant.

No. 83.

Affidavit.

UNITED STATES OF AMERICA,
District of South Carolina, ss:

Harvey Terry, the complainant in the foregoing amended bill of complaint, says that the facts averred and the things set forth in said amended bill are true as to things stated upon his own knowledge, and as to things stated upon information and belief he believes them to be true.

288 HARVEY TERRY.

Subscribed and sworn to before me this 6th day of May, A. D. 1878.

J. E. HAGOOD,
C. C. C. U. S. Dist. S. C.

Trial of cause.

And at the April term, 1878, of the said circuit court, this cause came up for hearing before the honorable Hugh L. Bond, circuit judge, and after hearing the pleadings, testimony and arguments of Harvey Terry, complainant per se, and A. G. Magrath, McCrady & Son, and Simons & Simons, solicitors for defendants, the court granted the following order dismissing bill, which order is in the words and tenor following:

No. 84.

Order.

UNITED STATES OF AMERICA,
District of South Carolina, Fourth Circuit:

In the circuit court.

HARVEY TERRY, PLAINTIFF.
against
JOHN J. McMcLURE, RECEIVER OF THE
289 Bank of Chester, et al., defendants.

On hearing the pleadings, testimony, and argument of counsel in this case, it is ordered and decreed that the plea of the statute of limitations be sustained, and the bill dismissed with costs to be taxed by the clerk of the court, and that the defendants do have execution for the same.

May 6, 1878.

HUGH L. BOND,
Ct. Judge.

And on the 3rd day of June, A. D. 1878, came into court the complainant, Harvey Terry, per se, and obtained the following allowance of appeal, which allowance of appeal is in the words and tenor following:

No. 85.

Allowance of appeal.

UNITED STATES OF AMERICA,
District of South Carolina:

HARVEY TERRY
vs.
BANK OF CHESTER, J. J. McLURE, RECEIVER,
et al., defendants.

290 To the honorable judges of the circuit court of the United States for the district of S. Carolina.

The humble petition of Harvey Terry, the complainant, shows—

1st. That a decree dated May 6th, 1878, in the above stated cause, judgment was ordered to be entered against the complainant, and the costs taxed in the cause.

2nd. That the amount involved in said suit exceeds ten thousand dollars.

3rd. That said decree, as your petitioner is advised, erroneous and ought to be reversed.

4th. Your petitioner humbly prays that he may be allowed an appeal from all parts of the proceedings had in said cause, and from said decree, to the Supreme Court of the United States.

HARVEY TERRY,
Complainant.

Allowance of appeal.

Appeal allowed as prayed for.
10 May, 1878.

HUGH L. BOND.

And on the 3rd day of June, A. D. 1878, came into court the complainant, Harvey Terry, per se, and filed the following appeal
291 bond, which bond is in the words and tenor following:

No. 86.

Appeal bond.

In the United States circuit court for the district of South Carolina.
In equity.

HARVEY TERRY
vs.
THE BANK OF CHESTER, JOHN J. MCLURE, rec'v'r, et al.

Bond security for costs.

Know all men by these presents that we, Harvey Terry and G. F. Armstrong, are held and firmly bound unto Thomas H. Croft, as executor of George S. Cameron; James Hemphill; A. B. Springs; John J. McLure; S. W. Mobley; R. N. Hemphill; Samuel McAliley; Dr. A. P. Wiley; James Hemphill, as surviving executor; Adam Walker, executor; C. C. McCoy, as administrator; John L. Harris, trustee; Mrs. C. Z. Mills; J. L. Adams, executor; Nicholas Colvin; W. A. Clark, ex'r; R. S. Hope; R. N. Hemphill, ex'r; Jos. C. Pedan; Mrs. C. L. McGowan; John Aiken, jr.; Alexander and Robert Walker, adm'rs; W. A. Walker; Margaret Moffatt; John G. Steele; T. K. Egleston; John Brice; L. C. McDonald; Erskine Theological Seminary, Jas. N. Young, treas-
292 urer; W. B. Williams, adm'r; W. T. Robinson; John B. Caldwell, as adm'r; Rudolph Brandt; E. M. Kirkpatrick; W. A. Pedan, adm'r; A. B. Davidson; John Adams; Susan J. Springs, executrix; John N. McLure, sr.; E. A. Springs; R. C. Springs; John S. Bratton & R. S. Hope, as adm'rs; B. B. Greer, ex'r'x; J. M. Daniel, adm'r; A. S. Johnston, trustee; B. J. Witherspoon, adm'r; John L. Harris, adm'r; L. S. White, adm'r; Mrs. P. B. Gaston, ex'r'x; John M. White, executor; Elizabeth McCandless; Wm. McCandless; W. E. Adams; Robert Mills, adm'r; Mrs. Emily E. Wright, executrix; Mrs. Ann E. Wright, executrix; A. S. J. Perry, trustee; Phineas Pierce; E. C. Mowry; J. L. Adams; Wm. Stringfellow, adm'r; Samuel P. Alexander; Emery Thayer; Carver Randall; Jos. S. Gibbes; John H. Brown & A. M. Burwell, adm'rs; M. M. Orr; S. Y. Tupper; S. Laura Lance, ex'r'x; Giles

J. Patterson; Giles J. Patterson, adm'r; W. H. Crosly, as executor of B. F. Arthur, dec'd; , as ex'r of Jos. H. Dogan; T. J. Cureton, as adm'r; Jos. J. White; Wm. Munro, as adm'r of W. Kenan, trustee; Mrs. C. Goudelock, executrix; Dr. D. Lyles, as ex'r; Agnes C. Brice, as ex'r'x; Jas. W. Kee; are held and firmly bound unto said parties in the sum
293 of two hundred and fifty dollars, to be paid to said Thomas H. Croft, as executor, and the other defendants in said appeal, to which payment, well and truly to be made, we bind ourselves and each of us, jointly and severally, and each of our heirs, executors, and administrators, firmly by these presents, sealed with our seals and dated this 20th day of May, A. D. 1878.

Whereas the above-named Harvey Terry has prosecuted an appeal to the Supreme Court of the United States to reverse the decree made in this cause on the 6th day of May, 1878, by the circuit court sitting at Charleston, S. C., and said Harvey Terry having obtained leave to appeal and filed a copy thereof in the clerk's office of said court, to reverse the said decree of judgment in the aforesaid suit, and a citation directed to the said Thomas H. Croft, as executor of Geo. S. Cameron, deceased, James Hemphill, and the other defendants named, and their several attorneys, citing and admonishing them to be and appear at a Supreme Court of the United States, to be holden at Washington the 2nd Monday of October next:

294 Now, the condition of the above obligation is such, that if the said Harvey Terry shall prosecute said appeal to effect, and answer all costs and damage if he fail to make his plea good, then the above obligation to be void; else to remain in full force and virtue.

HARVEY TERRY. [SEAL.]
G. F. ARMSTRONG. [SEAL.]

Signed, sealed, and delivered in presence of—
J. E. HAYGOOD, as to Harvey Terry.

Approved.

GEO. S. BRYAN,
U. S. Judge Dist. of So. Ca.

And on the 3rd day of June, A. D. 1878, came into court the complainant, Harvey Terry, per se, and obtained the following citation, which citation is in the words and tenor following:

No. 87.

Citation.

UNITED STATES OF AMERICA,
District of South Carolina:

Citation.

To Wm. Caldwell, Thomas H. Croft, ex'r of Geo. S. Cameron,
295 dec'd, Jas. Hemphill, A. B. Springs, Jno. J. McLure, S. W. Mobley, R. N. Hemphill, Sam. McAliley, Dr. A. P. Wiley, Jas. Hemphill, as surviving ex'r of Mrs. Jane Hemphill, Adam Walker, ex'r of Jas. Walker, dec'd, C. C. McCoy, as adm'r of N. R. Eaves, dec'd, Jno. L. Harris, trustee for M. & E. Harris, , adm'r of Lavinia Steele, dec'd, Mrs. C. Z. Mills, E. C. McLure, trustee for

Mrs. P. A. Pride, J. L. Adams, ex'r of Jno. H. Adams, Nicholas Colvin, W. A. Clarke, ex'r of C. D. Melton, dec'd, R. S. Hope, R. N. Hemphill, adm'r of J. M. Brawley, dec'd, Harriet E. Henry, Jos. C. Pedan, Mrs. C. L. McGowan, Jno. Aiken, jr., Alex. & Robert Walker, adm'r, of Adam Walker, W. A. Walker, Margaret Moffett, R. W. Brice, Jno. G. Steele, ex'r of Jno. Steele, dec'd, Mrs. Julia Henry, T. K. Egleston, Jno. Brice, L. C. McDonald, Erskine Theological Seminary, Jas. N. Young, treas., W. B. Williams, adm'r of A. Stillwell, dec'd, W. T. Robinson, Jno. B. Caldwell, as adm'r of Jordan Bennett, dec'd, Rudolph Brandt, surviving partner of Bennett, Wilson & Co., E. M. Kirkpatrick, W. A. Pedan, adm'r of Jno. F. Bingham, dec'd, A.
296 B. Davidson, C. C. McCoy, adm'r of Jno. Poag, dec'd, R. B. Caldwell, adm'r of C. Caldwell, dec'd, Jno. Adams, Susan J. Springs, ex'x of R. A. Springs, Jno. N. McLure, sr., E. N. Springs, R. C. Springs, Jno. S. Bratton and R. S. Hope, adm's of Sam. Rainey, dec'd, B. B. Greer, adm'x of R. S. Greer, dec'd, J. M. McDaniel, adm'r of Wm. Knox, A. S. Johnston, trustee, B. J. Witherspoon, adm'r of Jas. H. Witherspoon, Jno. Cairnes, Jno. L. Harris, adm'r of Wm. McLure, dec'd, L. S. White, adm'r of Jos. F. White, dec'd, Mrs. P. B. Gaston, ex'x of J. B. Gaston, dec'd, Jno. M. White, ex'r Wm. E. White, dec'd, Elizabeth McCandless, Wm. McCandless, W. E. Adams, Robert Mills, adm'r of Jas. Y. Mills, Mrs. Emily E. Wright, ex'x of J. S. Wright, Mrs. Ann E. Wright, ex'x of Sam. Wright, dec'd, A. S. J. Perry, trust. for Mrs. Martha Perry, Phineas Pierce, E. C. Moury, M. C. Wysong, J. S. Adams, Wm. Stringfellow, adm'r of Philip Walker, Sam. P. Alexander, Emory Thayer, Carver Randall, Jas. S. Gibbes, N. M. Porter, Jno. M. Brown & A. M. Birwell, adm'r of Peter N. Brown, Dr. M. M. Orr, S. Y. Tupper, , adm'r of Josiah Bedan, S. Laura Lance, as surviving ex'x of Mrs.
297 M. Potts, dec'd, Giles J. Patterson, G. J. Patterson, as adm'r of J. C. Lipford, dec'd, W. H. Crosly, as ex'r of B. F. Arthur, dec'd, who was ex'r of Jos. H. Dogan, dec'd, T. J. Cureton, adm'r of W. T. Gilmore, Jos. J. White, Mrs. P. A. Pride, Wm. Munro, as adm'r of W. Keenan, trustee, dec'd, Rev'd Henry Quigg, Mrs. C. Goudelock, ex'x of D. Goudelock, Dr. D. Lyles, as ex'r of W. H. Gill, Agnes C. Bryce, now Agnes C. Mitchell, adm'r of Jno. Brice, dec'd, J. Havey Smith, Jas. W. Kee, and to their certain attorneys, Jas. H. Rion, Simons & Simons, McCrady & Son, W. A. Clark, defendants' attorneys, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States to be holden at Washington, on the second Monday of October next, pursuant to an appeal filed in the clerk's office of the circuit court of the United States for the district of South Carolina, at Charleston, wherein Harvey Terry is complainant and you are the defendants, to show cause, if any there be, why the judgment in said appeal should not be corrected, and speedy justice should not be done to the parties in that behalf.

298 Witness my hand and seal, at the city of Charleston, in the district of South Carolina, this 9th day of May, A. D. 1878.

[SEAL.] HUGH L. BOND.

No. 88.

Acceptance of service.

Copy received 1 June, 1878.

JAS. H. RION,
Sol'r for some Def'ts.

Copy rec'd 3 June, 1878.

SIMONS & SIMONS,
Sol'r for T. S. Croft, Ex. G. S. Cameron.

Served a copy of the within citation on McCrady & Son, & W. A. Clark, at their offices, June 1st & 3rd, 1878.

HARVEY TERRY.

Subscribed & sworn to before me this June 3rd, 1878.

J. E. HAGOOD,
C. C. C. U. S., Dist. S. C.

 No. 89.

UNITED STATES OF AMERICA,
District of South Carolina, Fourth Circuit:

In circuit court.

I, J. E. Hagood, clerk of the circuit court of the United States for the district of South Carolina, do hereby that the foregoing is a true and correct copy of a portion of the records, proceedings, and of the decree in the case of Harvey Terry, complainant, against John J. McLure, receiver of the Bank of Chester, South Carolina, et al., defendants, citizens of the State of South Carolina, rendered as aforesaid, together with all the proceedings had in case relating to the same.

Given under my hand and seal of the said court, at clerk's office in the city of Charleston, this the 26th day of July, A. D. 1878.

[SEAL.]

J. E. HAGOOD,
C. C. C. U. S., Dist. S. C.

(Indorsement on cover:) No. 464. Harvey Terry, appellant, vs. John J. McLure, receiver of the Bank of Chester, et al. So. Carolina C. C. U. S. Filed 9th September, 1878.